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# HOUSE JOURNAL

OF THE

## THIRD SESSION

OF THE

# LEGISLATIVE ASSEMBLY

OF THE

## TERRITORY OF MONTANA,

BEGUN AND HELD AT VIRGINIA CITY, THE CAPITAL OF SAID  
TERRITORY, ON MONDAY, NOVEMBER 5, A. D. 1866,  
AND CONCLUDED DECEMBER 15, A. D. 1866.

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1870.





## FEDERAL OFFICERS.

### *Secretary and Acting Governor,*

THOMAS F. MEAGHER, . . . . . VIRGINIA CITY.

### *Supreme Judges,*

1st District—HEZEKIAH L. HOSMER, *Chief Justice*, . . . . . VIRGINIA CITY.  
2d District—LORENZO P. WILLISTON, *Associate Justice*, . . . . . DEER LODGE CITY.  
3d District—LYMAN E. MUNSON, *Associate Justice*, . . . . . HELENA.

### *U. S. District Attorney,*

EDWARD B. NEALLEY, . . . . . DEER LODGE CITY.

### *U. S. Marshal,*

GEORGE M. PINNEY, . . . . . HELENA.

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## TERRITORIAL OFFICERS.

### *Auditor,*

JOHN H. MING, . . . . . VIRGINIA CITY.

### *Treasurer,*

JOHN S. ROCKFELLOW, . . . . .

### *Superintendent of Public Instruction,*

T. F. CAMPBELL, . . . . . HELENA.

## MEMBERS OF THE HOUSE.

A. E. MAYHEW, *Speaker*.

RAY W. ANDREWS.

C. P. BLAKELY.

I. N. BUCK.

M. CARROLL.

T. D. CLANTON.

JOHN DONEGAN.

A. M. ESLER.

J. GALLAHER.

T. L. GORHAM.

H. JORDAN.

W. W. JOHNSON.

A. S. MAXWELL.

J. L. McCULLOUGH.

PETER McMANNUS.

LOUIS McMURTRY.

R. W. MIMMS.

JOHN OWEN.

J. W. RHODES.

M. ROACH.

J. H. ROGERS.

A. J. SMITH.

H. F. SNELLING.

J. B. VAN HAGAN.

J. W. WELCH.

J. B. WYLIE.

A. H. BARRET, *Chief Clerk*.

JAS K. DUKE, *Assistant Clerk*.

— HEDGES, *Engrossing Clerk*.

— MCCAULEY, *Enrolling Clerk*.

O. P. THOMAS, *Sergeant-at-Arms*.

WM. DEASCEY, *Doorkeeper*.



# HOUSE JOURNAL.

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## THIRD SESSION.

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### FIRST DAY.

VIRGINIA CITY, MONTANA TERRITORY, }  
November 5, 1866. }

The Legislative Assembly of the Territory of Montana, begun and held at the capital in the city of Virginia, on Monday, the 5th day of November, A. D. 1866; it being the third session, held under the Organic Act, for the Territory of Montana.

On which day, being the day fixed by territorial enactment for the meeting of the Legislative Assembly, the members elect of the House of Representatives, at 12 o'clock, meridian, were called to order by Thomas Francis Meagher, Secretary of Montana Territory, and A. J. Smith, of Beaver Head, was appointed Speaker *pro tem*.

On motion of Mr. Mimms, A. H. Barret was appointed Clerk *pro tem*.

Mr. O. P. Thomas was appointed Sergeant-at-Arms *pro tem*. and Mr. Wm. Deascey, Doorkeeper.

On motion of Mr. Mayhew, a Committee of three was appointed on credentials, to report at 3 o'clock, P. M.

The chair appointed Messrs. Mayhew, McCullough, and Buck, said Committee.

On motion of Mr. Mayhew, the House adjourned to 2 o'clock, P. M.

## AFTERNOON SESSION.

Speaker *pro tem.* in the chair.

Mr. Mayhew, chairman of Committee on Credentials, reported the following, to wit:

We, the undersigned, appointed as a Committee on Credentials, find the following named persons entitled to seats on this floor as members of the third session of the Legislative Assembly of the Territory of Montana, having been elected, as prescribed by law, at the general election held on the first Monday of September, A. D. 1866, to wit:

*Madison County*—J. L. McCullough, H. Jordan, J. H. Rogers, M. Roach, John Donegan.

*Edgerton County*—A. S. Maxwell, R. W. Mimms, Ray W. Andrews, J. W. Rhodes, J. B. Van Hagan.

*Beaver Head County*—A. J. Smith, A. M. Esler.

*Deer Lodge County*—A. E. Mayhew, Louis McMurtry, T. L. Gorham, J. B. Wylie, Peter McMannus.

*Meagher County*—T. D. Clanton, J. W. Welch, M. Carroll, H. F. Snelling.

*Gallatin County*—J. Gallaher, C. P. Blakely.

*Jefferson County*—I. N. Buck.

A. E. MAYHEW, *Chairman.*

I. N. BUCK.

J. L. MCCULLOUGH.

Report received and adopted, and Committee discharged.

Roll called, by counties. Members came forward, and the oath was administered by Hon. Wm. M. Stafford.

Roll called—absent, Messrs. Carroll, Maxwell, Owen, Snelling, and Welch.

Quorum present.



Nominations for Speaker being in order—

Mr. Andrews nominated Mr. Mimms, of Edgerton.

Mr. McCullough nominated Mr. Rogers, of Madison.

Mr. McMurtry nominated Mr. Mayhew, of Deer Lodge.

There being no further nominations, Mr. McCullough moved to vote *viva voce*. Carried.

Roll called, and those voting for Mr. Mayhew were: Messrs. Blakely, Buck, Esler, Gorham, Johnson, McMannus, McMurtry, Rogers, Smith, and Wylie—10.

Those voting for Mr. Mimms were: Messrs. Andrews, Gallaher, Rhodes, and Van Hagan—4.

Those voting for Mr. Rogers were: Messrs. Clanton, Donegan, Jordan, Mayhew, McCullough, Mimms, and Roach—7.

There being no choice, the members proceeded to a second ballot.

Roll called.

Those voting for Mr. Mayhew were: Messrs. Blakely, Buck, Donegan, Esler, Gorham, Johnson, Jordan, McMannus, McMurtry, Roach, Rogers, Smith, and Wylie—13.

Those voting for Mr. Mimms were: Messrs. Andrews, Gallaher, Rhodes, and Van Hagan—4.

Those voting for Mr. Rogers were: Messrs. Clanton, Mayhew, McCullough, and Mimms—4.

Mr. Mayhew, having received a majority of the votes, was declared elected.

On motion of Mr. Wylie, Messrs. Rogers and Mimms were appointed to conduct Mr. Mayhew to the chair.

Mr. Wylie moved that the vote for all the officers be taken *viva voce*.

Nominations for Chief Clerk being in order—

Mr. McCullough nominated Mr. A. H. Barret, of Madison.

There being no further nomination, Mr. Barret was, on motion, declared unanimously elected.

Mr. James K. Duke was nominated for Assistant Clerk, and, on motion, declared unanimously elected.

Nominations for Engrossing Clerk being in order—

Mr. Donegan nominated Mr. Hedges, of Madison.

Mr. McCullough nominated Mr. Craig.

There being no further nominations, the roll was then called.

Those voting for Mr. Hedges were: Messrs. Andrews, Blakely, Buck, Clanton, Donegan, Esler, Gallaher, Johnson, Jordan, Mayhew, McMannus, Mimms, Rhodes, Roach, Rogers, and Wylie—16.

Those voting for Mr. Craig were: Messrs. Gorham, McCullough, McMurtry, Smith, and Van Hagan—5.

Mr. Hedges, having received a majority of the votes, was declared elected Engrossing Clerk.

Nominations for Enrolling Clerk being in order—

Mr. McCullough nominated Mr. McCaleb, and there being no other nominations, Mr. McCaleb was, on motion, elected by acclamation.

Sergeant-at-Arms being next in order—

Mr. Wylie nominated Mr. O. P. Thomas, of Madison, who was, upon motion, declared unanimously elected.

Doorkeeper being next in order, Mr. ——— nominated Mr. Wm. Deascey, of Madison.

Mr. Wylie nominated Mr. Durgee, of Deer Lodge.

Roll called.

Those voting for Mr. Deascey were: Messrs. Andrews, Blakely, Buck, Clanton, Donegan, Esler, Gallaher, Gorham, Jordan, McCullough, McMannus, Mimms, Rhodes, Roach, and Rogers—15.



Those voting for Mr. Durgee were: Messrs. Johnson, Mayhew, McMurtry, Smith, Van Hagan, and Wylie—6.

Mr. Deascey was declared elected.

On motion of Mr. Smith, the House proceeded to the election of a Fireman.

Mr. Mimms nominated Mr. Wood.

Mr. Jordan nominated Mr. Pat Geaghan.

Mr. ——— nominated Mr. George Daily.

Roll called.

Mr. Wood received 8 votes.

Mr. Geaghan received 3 votes.

Mr. Daily received 10 votes.

There being no choice, the House proceeded to vote for Fireman a second time.

Roll called.

Mr. Wood received 13 votes.

Mr. Geaghan received 1 vote.

Mr. Daily received 7.

Mr. Wood, having received a majority, was declared elected Fireman of this House.

Mr. McCullough moved that the House then proceed to the election of two Pages for this House.

Mr. Donegan moved to lay the motion on the table. Lost.

Mr. McCullough's motion was then carried.

Mr. McCullough nominated Masters Andrews and Crow, who were, on motion, elected by acclamation.

On motion of Mr. Smith, the rules adopted by the last Legislative Assembly were temporarily adopted for this House.

On motion of Mr. Mimms, the House then proceeded to the election of a Chaplain for this House.

Mr. Mimms nominated Mr. Marshall.

Mr. Donegan nominated Mr. Duncan.

Roll called.

Mr. Duncan received 12 votes.

Mr. Marshall received 8 votes.

Mr. Brookie received 1 vote.

Mr. Duncan, having received a majority of the votes cast, was declared elected Chaplain of this House.

Mr. McCullough introduced the following Joint Resolution No. 1:

*Resolved*, By the House of Representatives, the Council concurring, that we tender to General Thomas Francis Meagher, Secretary of the Territory of Montana, our sincere thanks for the commodious, comfortable and neat style in which he has fitted up and furnished the Halls for the reception of the members of the Legislative Assembly, and the public generally.

Read first and second time, rules suspended, read third time, and passed.

Roll called.

Those voting in the affirmative were—Messrs. Andrews, Blakeley, Buck, Clanton, Donegan, Esler, Gallaher, Gorham, Johnson, Jordan, Mayhew, McCullough, McMannus, McMurtry, Mimms, Rhodes, Roach, Rogers, Smith, Van Hagan, and Wylie—21.

*Nays*—None.

Mr. Smith moved that the Council be invited to be present to-morrow, at 10 o'clock, A. M., to hear any communication the Governor may have to make. Carried.

Mr. McCullough moved that Mayor Castner's proclamation be spread upon the journal of this House. Withdrawn.

Mr. McCullough introduced H. J. No. 2:

*Resolved*, By the House of Representatives, the Council concur-



ring, that any person found guilty of taking a fee, or being actuated by the hope of reward, in a pecuniary sense, to secure the passage of any bill or resolution through this body, be publicly reprimanded, and expelled from the privileges of either House.

Read first and second time, rules suspended, resolution read third time, and passed.

Mr. Smith moved that reporters of all the papers of this Territory be allowed the privilege of the floor for the purpose of reporting the proceedings of this House.

On motion of Mr. Smith, a Committee of three was appointed to wait upon the Secretary and ascertain how many, and what papers would be furnished this House, and whether postage stamps would be furnished this House, and if so, how many.

Messrs. Smith, Rogers and McCullough were appointed said Committee.

The Clerk was, on motion, instructed to inform the Council that the House was now organized, and ready to proceed with business.

The oath of office was then administered to the officers elect by Hon. Wm. M. Stafford.

On motion of Mr. McCullough, the House adjourned until 10 o'clock, A. M., to-morrow.

A. E. MAYHEW,  
*Speaker.*

A. H. BARRET,  
*Chief Clerk.*

## SECOND DAY.

NOVEMBER 6, 1866.

House met pursuant to adjournment—Mr. Speaker in the chair.

Roll called—Quorum present.

Minutes of yesterday read and approved.

On motion of Mr. Mimms, a Committee of three was appointed to prepare rules for the government of this House. Mr. Speaker appointed Messrs. Mimms, Smith, and Johnson.

Mr. McMurtry presented a petition from James A. Brown, contesting the seat of A. M. Esler, member from Beaver Head county.

On motion of Mr. Andrews, it was referred to a Select Committee of three. The chair appointed Messrs. Andrews, Smith, and McMurtry.

On motion of Mr. Smith, a Committee of three was appointed to inform the Council that the House was organized and ready to proceed with the business. The chair appointed Messrs. Smith, Wylie and Van Hagan as said Committee.

The following communication was received from the Secretary :

SECRETARY'S OFFICE, MONTANA TERRITORY, }  
VIRGINIA CITY, Nov. 6, 1866. }

*To the Hon. the Speaker of the House of Representatives :*

SIR—I have the honor to inform you that I have employed John P. Bruce, Esq., of the Montana Democrat, to do such printing



as your honorable body may desire executed from day to day, during your present session. And in this connection, I beg leave respectfully to call your attention to the following extract from the instructions of the Treasury Department :

“This Department claims and exercises the right, under existing laws, to regulate the price and quantity of territorial printing. The limits of the annual appropriation, aside from any other consideration, would not admit of any indefinite action in this respect by the Assembly; you will, therefore, suggest to the presiding officer of each House, that memorials, petitions, and documents having no necessary connection with the duties of legislation or the dissemination of useful information among the people, will be excluded and not printed at the expense of the United States.”

I feel authorized to say, that if your honorable body will, through your Chief Clerk, furnish to the Public Printer, minutes of your proceedings each day, they will also be printed at the expense of the General Government, and appear every morning in due form.

I have the honor to be

Very truly yours,

THOMAS FRANCIS MEAGHER,

*Secretary of Montana Territory.*

Read, and upon motion of Mr. Mimms, was ordered to be spread upon the journal.

Mr. Mimms gave notice that he would, on to-morrow or some future day, introduce a bill entitled “An Act to regulate the sale of horses, mules and cattle at auction in this Territory.”

Also, a bill for “An Act to create county attorneys in each of the organized counties of the Territory, and defining the duties of the same.”

Mr. Wylie moved to reconsider Joint Resolution No. 2.

Roll called—with the following result :

Those voting in the affirmative, were—Messrs. Andrews, Blakely, Buck, Clanton, Esler, Gorham, Johnson, Jordan, McMannus, McMurtry, Rhodes, Roach, Rogers, and Mr. Speaker—14.

Those voting in the negative, were—Messrs. Donegan, McCullough, and Mimms—3.

Mr. Andrews moved a call of the House.

Absent—Messrs. Carroll, Gallaher, Maxwell, Owen, and Welch.

Sergeant-at-Arms was sent for absentees.

On motion of Mr. Mimms, the call of the House was suspended.

On motion of Mr. Wylie, H. J. R. No. 2 was laid on the table.

Mr. Chiles, chairman of the Committee from the Council, announced that the Council would meet the House in joint session at 2 o'clock, P. M. to-day.

On motion of Mr. Buck, H. J. R. No. 2 was taken from the table, read a third time, and lost by the following vote:

Those voting in the affirmative, were—Messrs. Donegan, McCullough, Mimms, Roach, and Rhodes—5.

Those voting in the negative, were—Messrs. Andrews, Blakely, Buck, Clanton, Esler, Gorham, Johnson, Jordan, McMannus, McMurtry, Rogers, Smith, Van Hagan, Wylie, and Mr. Speaker—15.

On leave, Mr. McCullough, introduced H. B. No. 1, "An Act entitled an act to repeal an act in relation to trout fishing."

Read first and second time, and, on motion of Mr. Smith, was laid on the table.

On motion of Mr. Smith, the House appointed 2 o'clock, P. M. to meet in joint convention.

Mr. Smith, chairman of the Committee to wait on the Council and inform them that the House was organized and ready to proceed with business, reported the following, to wit:

MR. SPEAKER—Your Committee, appointed to inform the Council that the House is permanently organized and ready to meet them in joint session, have discharged their duty, and respectfully ask to be discharged.

A. J. SMITH, *Chairman.*

Mr. McCullough, chairman of the Committee to wait on the Secretary, Thomas Francis Meagher, and ascertain what papers, and how many, he would furnish the members during the session, and whether postage stamps, and how many, would be furnished, made the following report, to wit:

MR. SPEAKER—We, the Committee appointed to wait upon Thomas Francis Meagher, Secretary of the Territory of Montana, to ascertain what arrangements had been made with the post office department for the accommodation of the members during the session, and further, to make inquiry as to how many and what newspapers will be furnished the members during the session—

Would respectfully report, that we have performed that duty, and learn from the Secretary that the same arrangements as of last year will be made in relation to postage.

Also, the Secretary informs us, that he will furnish each member (weekly) with six copies of the "Montana Democrat" and six copies of the "Rocky Mountain Gazette."

J. L. McCULLOUGH, *Chairman.*

On motion of Mr. Buck, the House adjourned to 1½ o'clock,

. M.



## AFTERNOON SESSION.

House met pursuant to adjournment—Mr. Speaker in the chair.

Roll called—Quorum present.

The Speaker announced the following Standing Committees for the House :

*Ways and Means*—I. N. Buck, C. P. Blakely, and T. L. Gorham.

*Judiciary*—Louis McMurtry, J. L. McCullough, and A. J. Smith.

*Internal Improvements*—J. H. Rogers, John Owen, and J. B. Van Hagan.

*Public Lands*—John Owen, James Gallaher, and H. Jordan.

*Federal Relations*—J. H. Rogers, Louis McMurtry, and J. L. McCullough.

*Education*—R. W. Mimms, M. Roach, and W. W. Johnson.

*Towns and Counties*—J. B. Van Hagan, I. N. Buck, and Peter McMannus.

*Military Affairs*—John Donegan, A. M. Esler, and J. B. Van Hagan.

*Incorporations*—J. L. McCullough, J. B. Wylie, and A. J. Smith.

*Agriculture and Manufactures*—J. B. Wylie, T. D. Clanton, and J. W. Rhodes.

*Elections*—Ray W. Andrews, C. P. Blakely, and J. Donegan.

*Indian Affairs*—W. W. Johnson, John Owens, and J. B. Wylie.

*Mines and Minerals*—J. W. Rhodes, J. Donegan, and A. M. Esler.

*Engrossment and Enrollment*—A. J. Smith, J. H. Rogers, and T. D. Clanton.

*Enrollment*—J. Donegan, W. W. Johnson, and J. B. Wylie.

*Printing*—Ray W. Andrews, Peter McMannus, and C. P. Blakely.

On motion of Mr. Buck, fifty copies of the list of Standing Committees were ordered printed.

Mr. McCullough moved to amend by inserting one hundred.†

Amendment accepted and adopted.

On motion of Mr. Van Hagan, Mr. James A. Brown was admitted to a seat upon the floor of the House during the pendency of the contest for the seat of A. M. Esler, of Beaver Head.

On motion of Mr. Buck, H. B. No. 1 was taken from the table and referred to Committee on Judiciary.

The House and Council met in joint convention.

President Bagg in the chair.

Roll called—Messrs. Carroll, Gallaher, Maxwell, Owen, Snelling, and Welch of the House, absent.

On motion of Speaker Mayhew, a Committee of three from the joint convention was appointed to inform His Excellency Governor Smith that the two Houses are in joint convention, and are ready to receive any communication he may have to make.

The President appointed Mr. Waterbury of the Council and Messrs. Mayhew and Rogers of the House, said Committee.

The Committee waited upon His Excellency, and reported a discharge of the duty assigned them, and asked to be discharged. Whereupon, the President introduced His Excellency Governor Green Clay Smith to the convention, who then in person delivered his message.

At the close of the message, Mr. Waterbury of the Council introduced the following resolution:

*Resolved*, By the Legislative Assembly in joint convention assembled, that one thousand copies of the Governor's message be ordered printed for the use of the members of the Legislative Assembly.

Mr. Smith moved to amend by inserting "three" instead of "one" thousand. Lost.

Mr. Johnson moved to insert "two thousand" instead of "one thousand."

Roll called.

Those voting in the affirmative, were—Messrs. Andrews, Buck,, Clanton, Donegan, Esler, Johnson, Jordan, McCullough, McMannus, McMurtry, Mimms, Rhodes, Roach, Rogers, Smith, Wylie, and Mr. Speaker—17.

Those voting in the negative, were—Messrs. Blakely, Gorham, and Van Hagan—3.

The vote then being taken upon the resolution as amended, was adopted.

Mr. Johnson then moved to reconsider the vote by which the resolution was passed. Carried.

Mr. Mayhew moved to lay the resolution as amended on the table. Carried.

Mr. Chiles moved that all the proceedings relating to the printing of the Governor's message be stricken from the minutes. Lost.

On motion of Mr. Smith, the joint convention adjourned.

The House then resumed its session. Mr. Speaker in the chair.

Roll called—absent, Mr. Gallaher.

Mr. Smith offered the following resolution, to wit:

*Resolved*, That two thousand copies of the Governor's message be printed for the use of this House.

Mr. McCullough moved to amend by inserting "one thousand" instead of "two thousand." Lost.

The original motion was then put.

Roll called.



Those voting in the affirmative, were—Messrs. Andrews, Buck, Clanton, Donegan, Esler, Johnson, Jordan, McCullough, McMannus, McMurtry, Mimms, Rhodes, Roach, Rogers, Smith, Wylie, and Mr. Speaker—17.

Those voting in the negative, were—Messrs. Blakely, Gorham, and Van Hagan—3.

Mr. Mimms moved that the House go into Committee of the Whole on to-morrow at 2½ o'clock, P. M., to consider the Governor's message.

Mr. McCullough moved that the report of the Committee to wait upon the Secretary of the Territory, be recommitted to the Committee. Carried.

Mr. Johnson moved to adjourn to 10 o'clock, A. M., to-morrow.

A. E. MAYHEW,  
*Speaker.*

A. H. BARRET,  
*Chief Clerk.*

## THIRD DAY

NOVEMBER 7, 1866.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—absent, Messrs. Carroll, Maxwell, Owen, Snelling, and Welch.

Minutes of yesterday read and approved.

Mr. Mimms, chairman of the Committee on Rules, made the following report:

MR. SPEAKER—Your Committee, to whom was referred the matter of reporting permanent rules for the government of this House, have had the same under consideration, therefore do respectfully recommend that the rules used by the last session of the Montana Legislature be adopted as the rules of this House, (the same are herewith attached, and made a part of this report,) with the following amendment:

Rule 20. Strike out, in line 3, the words "on an;" in line 4, strike out the word "appeal;" strike out all of line 6.

All of which your Committee respectfully submit.

R. W. MIMMS, *Chairman.*

Mr. Johnson moved to lay the report on the table, and make it the special order for 10 o'clock, A. M., to-morrow. Lost.

The report was then received, and the Committee discharged.

On motion of Mr. McCullough, the House went into Committee of the Whole, to consider said report.

On motion of Mr. Johnson, the Committee arose.

Mr. Speaker in the chair.

The following communication was received from the Council :

COUNCIL HALL, VIRGINIA CITY, }  
November 7, 1866. }

*To the Hon. Speaker of the House of Representatives :*

SIR—I am directed by the Council to inform your honorable body, that the following bill has been introduced in the Council, to wit :

C. B. No. 1, "An Act to regulate and license foreign miners."

And that the following notices have been given of the introduction of bills :

By Mr. Chiles, "An Act entitled an act concerning landlord and tenant.

By Mr. Phelps, "A Bill entitled an act in relation to fences and fence viewers."

By Mr. Wilkinson, "A Bill to repeal that part of the act which requires the county commissioners of the different counties in the Territory to pay jurors in civil cases."

Also, "A Bill entitled an act authorizing the Territorial Treasurer to receive from the treasurer of Edgerton county, the amount of territorial scrip received from his predecessor in office in payment of county taxes through a mistaken construction of the law."

Also, "To repeal an act of the Legislature which authorizes the county collectors to receive territorial scrip for county taxes."

Also, that the Council have appointed Messrs. Brown, Waterbury, and Spratt, a Committee to confer with a Committee on the part of the House, to report upon the propriety of adopting a civil practice act for the Territory.

Also, that the Council have appointed a Committee to draft a series of joint rules for the government of the two Houses, to



confer with a Committee to be appointed by the House. The Committee on the part of the Council are Messrs. Moore, Phelps, and Brown.

Respectfully,

WM. Y. LOVELL, *Chief Clerk.*

On motion of Mr. McCullough, the House adjourned to 2 o'clock, P. M.

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#### AFTERNOON SESSION.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—Quorum present.

Mr. Mimms, in pursuance of previous notice, introduced H. B. No. 2, "An Act to regulate the sale of horses, mules and cattle at auction, in this Territory."

Read first and second time, and referred to Committee on Judiciary.

Also, H. B. No. 3, "An Act entitled an act creating county attorneys in each of the organized counties of the Territory."

Read first and second time, and referred to Committee on Judiciary.

Mr. Donegan offered the following resolution:

*Resolved*, That the Secretary of the Territory be requested to furnish this House with an abstract of the titles to all bills of general nature passed at the Bannack Legislature.

Which was, on motion, adopted.

Mr. Johnson offered the following resolution :

*Resolved*, That the Secretary of the Territory be and is hereby requested to furnish the following information for the use of the House from the official returns in his office : The number of votes cast in each county, according to the returns of the last election.

Which was, on motion, adopted.

On motion of Mr. McCullough, a Committee of three was appointed to confer with a like Committee from the Council, to report upon the propriety of adopting a civil practice act. The Speaker appointed Messrs. McMurtry, McCullough, and Smith, said Committee.

Mr. McCullough, chairman of the Committee of the Whole House, made the following report :

MR. SPEAKER—Your Committee of the Whole House, to whom was referred the report of the Committee on rules for the government of this House, have had the same under consideration, and beg leave to make the following report, to wit :

In Rule 8, in line 1, strike out the word "once," and insert the word "twice." Strike out, in same rule, line 4, the word "four," and insert the word "two."

In Rule 17, line 2, insert the word "entire," after the word "the."

Strike out all of Rule 20 after the word "to," in 3rd line.

Also, in Rule 43, strike out the word "Executive," in 1st line, and insert the words "Governor and Secretary of the Territory."

And recommend the adoption by the House.

Respectfully submitted,

J. L. McCULLOUGH, *Chairman*.

Report received, and, on motion of Mr. Johnson, the rules, as amended, were adopted for the government of the House.

On motion of Mr. McCullough, fifty copies of the rules, as amended, were ordered to be printed for the use of the House.

On motion of Mr. Smith, the special order for 2 o'clock, (the consideration of the Governor's Message in Committee of the Whole,) was postponed until 7 o'clock this P. M.

The report of the Superintendent of Public Instruction was then read, and referred to the Committee on Education, and, on motion of Mr. Buck, fifty copies ordered printed.

Report of the Territorial Treasurer was read, and referred to the Committee on Finance, and, on motion of Mr. McCullough, one hundred copies ordered to be printed for the use of the House.

The Report of the Assistant Auditor was then read, and referred to the Committee on Ways and Means, and, on motion of Mr. McCullough, one hundred copies ordered printed.

Mr. McCullough made the following report :

We, the Committee appointed to wait upon T. F. Meagher, Secretary of Montana Territory, to ascertain what arrangements had been or would be made with the postoffice department for the accommodation of the members during the session, and, further, to make inquiry as to how many and what newspapers would be furnished, would respectfully report, that we have performed that duty, and are instructed by the Secretary to say, that the same liberal arrangements in relation to postage as of last year will be made; also, six copies each of the "Montana Democrat," and "Rocky Mountain Gazette," will be furnished weekly to each member; also, printed minutes of the proceedings of the previous day will be laid on the desk of each member every morning during the session.

J. L. McCULLOUGH, *Chairman.*

Report received, and Committee discharged.



Mr. McCullough offered the following resolution :

*Resolved*, That the public printer be requested to furnish to this House, for the use of the members, each morning, printed minutes of the proceedings of the previous day.

The following amendment was offered by Mr. Mimms :

Amend, by inserting, in line 3, between the words "members" and "each," the words "one copy."

Mr. Rogers moved to lay the amendment and resolution on the table. Lost.

The amendment was then adopted.

On motion of Mr. McCullough, the resolution, as amended, was adopted by the following vote :

Roll called.

Those voting in the affirmative were—Messrs. Andrews, Donegan, Esler, Jordan, McCullough, McManus, McMurtry, Mimms, Rhodes, Roach, and Van Hagan—11.

Those voting in the negative were—Messrs. Blakely, Buck, Clanton, Gorham, Johnson, Rogers, Smith, Wylie, and Mr. Speaker—9.

The following communication was received from the Council :

COUNCIL HALL, VIRGINIA CITY, }  
November 7th, 1866. }

*To the Hon. Speaker of the House of Representatives :*

SIR—I am directed by the Council to inform your honorable body, that Mr. Orr has given notice that, on to-morrow or some subsequent day, he will introduce "An Act entitled an act to define the judicial districts of this Territory, appoint the time and place for holding courts in the several districts, assigning the several judges to said districts, and limiting the jurisdiction of all the courts provided by the Organic Act creating the Territory of Montana."

Respectfully,

WM. Y. LOVELL, *Chief Clerk.*

On motion of Mr. Mimms, the House appointed a Committee of three, to draft a series of joint rules for the government of the two Houses, to confer with a like Committee from the Council.

The Speaker appointed Messrs. Mimms, Smith, and Rogers, said Committee.

Mr. Donegan presented a petition from the citizens of Madison county, which was, on motion of Mr. Mimms, referred to the Committee on Incorporations.

On motion of Mr. Mimms, the House adjourned to 7 o'clock this P. M.

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#### EVENING SESSION.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—Quorum present.

On motion of Mr. McMurtry, the Committee on Printing were ordered to return the reports of the Auditor and Treasurer to the House.

On motion of Mr. Johnson, the vote ordering the printing of Auditor's and Treasurer's report was reconsidered.

On motion of Mr. Johnson, the motion to have the Auditor's and Treasurer's reports printed was laid on the table.

The hour having arrived for special order, the House resolved itself into Committee of the Whole upon the Governor's Message.

Mr. Mimms in the chair.

On motion of Mr. Mayhew, the Committee arose.

Mr. Speaker in the chair.

Mr. Mimms, chairman of the Committee of the Whole, was granted until 10 o'clock, A. M., to-morrow, to report.

On motion of Mr. Wylie, the House adjourned to 10 o'clock, A. M., to-morrow.

A. E. MAYHEW,  
*Speaker.*

A. H. BARRET,  
*Chief Clerk.*

## FOURTH DAY.

NOVEMBER 8, 1866.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—Quorum present.

Minutes of yesterday read and approved.

Mr. McMurtry, chairman of Committee on Judiciary, reported as follows:

Your Committee on Judiciary, to whom was referred H. B. No. 2, beg leave to report the same back to the House, and recommend that it do not pass.

L. McMURTRY, *Chairman.*

Mr. Mimms offered a report as chairman of the Committee of the Whole, which was read, and, on motion of Mr. Smith, was recommended.

Mr. Mimms made the following report from Joint Committee on Rules:

MR. SPEAKER—Your Joint Committee, to whom was referred the matter of conferring with a like Committee from the Council upon Joint Rules for both Houses, have performed their duty, and therefore beg leave to make the following report:

Your Committee respectfully report the Joint Rules, as used by the second session of the Montana Legislature, and recommend that they be adopted by the House.

All of which your Committee respectfully submit.

R. W. MIMMS, *Chairman.*

Report received, and Committee discharged.



On motion of Mr. Roach, the rules were read and adopted.

On motion of Mr. Mimms, fifty copies were ordered printed.

Notice for the introduction of the following bills was given :

By Mr. Johnson—That, on to-morrow or some future day, he would introduce the following bills :

“An Act to change the county seat of Missoula county, and legalizing the acts of the county commissioners in said county.”

Also, “An Act entitled an act concerning license, approved February 9th, 1865.” And the amendment to said act, approved April 13th, 1866.

By Mr. McMurtry—On to-morrow, or some subsequent day, “An Act to amend an act to prevent pasturing stock on winter grass lands in Deer Lodge county, Montana Territory.”

By Mr. McCullough—“An Act to amend an act entitled an act creating the office of assessors, and defining their duties.”

By Mr. Esler—“An Act in relation to roads and road tax.”

By Mr. Mimms—for “An Act entitled an act to suppress gambling in Montana Territory.”

Also, a bill for “An Act entitled an act for maintaining and defending possessory rights upon the public domain in Montana Territory.”

By Mr. Smith—“An Act to locate a territorial road from Helena to the southern boundary of this Territory, to connect with the Salt Lake road.”

By Mr. Blakely—“An Act to change the county seat of Gallatin county.”

Also, “An Act to authorize Charles Francisco and David P. Abbott to construct a ferry on Sun river, at the old Mullen crossing.”

Mr. Buck introduced H. B. No. 4, without previous notice, “An Act authorizing Ray W. Andrews to establish a ferry across the Missouri river.”

Read first and second time, and referred to the Committee on Incorporations.

Mr. McMurtry gave notice of the introduction, on to-morrow or some subsequent day, of "A Bill providing for the collection of gambling debts by law."

Mr. Van Hagan gave notice that he would, on some subsequent day, introduce "A Bill to change the name of Muscleshell county and county seat."

The following message was received from the Council :

COUNCIL HALL,  
VIRGINIA CITY, Nov. 8th, 1866. }

*To the Hon. Speaker of the House of Representatives :*

SIR—I am directed by the Council to inform your honorable body of the passage of C. B. No. 4, which is herewith presented.

Respectfully,

WM. Y. LOVELL,  
*Chief Clerk.*

Mr. McCullough offered the following resolution :

*Resolved*, That all bills of a private character lay on the table during the first twenty days of this session.

On motion of Mr. Smith, the resolution was laid on the table.

Mr. Wylie offered the following Concurrent Resolution :

*Resolved*, By the House of Representatives, the Council concurring, that a Committee of three from the Council, and three from the House of Representatives, be appointed, whose duty it shall be to revise and amend the law concerning licenses.

The Speaker appointed, on the part of the House, Messrs. Wylie, Mimms, and McMannus.

C. B. No. 4 was taken up, "An Act to amend an act creating certain offices in the Territory of Montana, providing for the

manner of their election, declaring to whom resignations shall be made, when the office shall be deemed vacant, and the manner of filling vacancies."

Read first and second time, and, on motion of Mr. McMurtry, the rules were suspended, and the bill put to a third reading, and passed by the following votes : Yeas, 19 ; Nays, 2.

Those voting in the affirmative were : Messrs. Andrews, Blakeley, Buck, Clanton, Esler, Gallaher, Gorham, Johnson, McCullough, McMannus, McMurtry, Mimms, Rhodes, Roach, Rogers, Smith, Van Hagan, Wylie, and Mr. Speaker—19.

Those voting in the negative were : Messrs. Donegan and Jordan—2.

A communication from the Secretary was read for information.

On motion of Mr. Johnson, the Chief Clerk was directed to inform the Secretary of the Territory that the object of the House Resolution No. 2 was to obtain the highest number of votes cast in each county of the Territory at the last election, it being immaterial for what officer or officers the same was polled.

Mr. McMurtry, chairman of the Committee, made the following majority report upon H. B. No. 1 :

MR. SPEAKER—Your Committee on Judiciary, to whom was referred H. B. No. 1, beg leave to report the same back, with a recommendation that it do not pass.

L. MCMURTRY.

A. J. SMITH.

Report received.

Mr. McCullough, from the Committee on Judiciary, made the following minority report :

MR. SPEAKER—H. B. No. 1 having been referred to the Judiciary Committee, as a member of that Committee, I beg leave to

submit this as a minority report, and recommend that said bill do pass.

J. L. McCULLOUGH.

On motion of Mr. Murtry, the House adjourned to 2 o'clock, P. M.

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AFTERNOON SESSION.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—Quorum present.

The following message was received from the Council :

COUNCIL HALL,  
VIRGINIA CITY, Nov. 1st, 1866. }

*To the Hon. Speaker of the House of Representatives :*

SIR—I am directed by the Council to inform your honorable body that Mr. Brown gave notice that he would, on to-morrow or as soon thereafter as convenient, introduce "A Bill concerning jurors, in civil actions, in the district and justices' courts of the Territory of Montana."

Mr. Wilson gave notice that, on to-morrow or some subsequent day, he would introduce a bill entitled "An Act to amend an act defining the duties of the county treasurer, and the payment of county warrants," passed at the second session of the Legislature, 1866.

Respectfully,

WM. Y. LOVELL,  
*Chief Clerk.*

Mr. Smith moved that H. B. No. 1, "An Act to amend an act relating to trout fishing," be read third time, and put upon its final passage. Withdrawn.



Mr. Gorham moved to adjourn to 3 o'clock, P. M. Lost.

Mr. Mayhew moved that H. B. No. 1 be recommitted to the Committee on Judiciary, with the majority and minority reports. Withdrawn.

The following communication was received from the Council :

COUNCIL HALL,  
VIRGINIA CITY, Nov. 8th, 1866. }

*To the Hon. Speaker of the House of Representatives :*

SIR—I am directed by the Council to inform your honorable body that the joint rules, as reported by the Joint Committee of the two Houses, have been adopted by the Council.

Also, that the Council has concurred with the House in the resolution, herewith returned, relative to a vote of thanks to the Hon. Secretary of the Territory.

Also, notice of a bill entitled "An Act changing the time of assessing the value of real and personal property, and collecting the taxes for territorial and county purposes."

Also, notice of a bill entitled "An Act prohibiting certain games."

Also, notice of a bill, entitled "An Act concerning the institution of suits in the district and justices' courts in the Territory of Montana."

Also, notice of a bill entitled "An Act to incorporate the Beaver Head County Gold and Silver Mining and Manufacturing Company."

Also, notice of the introduction of a bill entitled "An Act authorizing George Humphreys and William Allison to construct a ditch, and take water therefor from the waters of Deer Lodge."

Also, the adoption of the following resolution :

*Be it Resolved*, By the Council, that the members of the House of Representatives, Secretary of the Territory, and all ministers of the Gospel, be admitted within the bar of the Council.

Respectfully,

WM. Y. LOVELL,

*Chief Clerk.*

On motion of Mr. McCullough, the House resolved itself into a Committee of the Whole House, to consider H. B. No. 1. Mr. Mimms in the chair.

Mr. Smith moved that the Committee arise and report the bill back to the House, and recommend that it do not pass. Carried.

House resumed. Mr. Speaker in the chair.

Mr. Mimms, chairman of the Committee of the Whole, on Governor's Message, reported as follows :

MR. SPEAKER—The Committee of the Whole House, to whom was referred the Governor's Message, have had the same under consideration, and, through their chairman, beg leave to make the following report :

Your Committee respectfully report the following proceedings, had in Committee of the Whole :

That all that portion of the Governor's Message relating to education, be referred to the Committee on Education.

That all that portion of the Governor's Message relating to the finances of the Territory, be referred to the Committee on Finances.

That all that portion of the Governor's Message relating to the "amendment of laws," be referred to the Committee on Judiciary.

That all that portion of the Governor's Message relating to "Choteau county," be referred to the Committee on Judiciary.

That all that portion of the Governor's Message relating to "assessors and collectors," be referred to the Committee on Judiciary.

That all that portion of the Governor's Message relating to the "outstanding indebtedness" of the Territory, be referred back to the House, with a recommendation that it be referred by the House to a Joint Committee of both Houses, as recommended by His Excellency the Governor.

That all that portion of the Governor's Message relating to "surveys, and the necessity of a Surveyor for the Territory," be referred to the Committee on Federal Relations.

That all that portion of the Governor's Message relating to "mints," be referred to the Committee on Federal Relations.

That all that portion of the Governor's Message relating to the "Civil Practice Act," be referred back to the House, and recommend that the same be referred to the Joint Committee of both Houses on the "Code."

That all that portion of the Governor's Message relating to "appropriations by the General Government," be referred to the Committee on Federal Relations.

That all that portion of the Governor's Message relating to "highways, post offices, etc.," be referred to the Committee on Roads and Bridges.

That all that portion of the Governor's Message relating to "wagon roads, railroads, etc.," be referred to Committee on Roads and Bridges.

That all that portion of the Governor's Message relating to "Indian depredations, etc.," be referred to the Committee on Military Affairs.

That all that portion of the Governor's Message relating to "agriculture," be referred to the Committee on Agriculture.

All of which is respectfully submitted.

R. W. MIMMS,

*Chairman of the Committee of the Whole.*

On motion of Mr. Wylie, the report was received and adopted.

Mr. Mimms, chairman of the Committee of the Whole, made the following report on H. B. No. 1 :

MR. SPEAKER—The Committee of the Whole, to whom was referred House Bill No. 1, "An Act to amend an act in relation to trout fishing," have had the same under consideration, and, through their chairman, report the same back, and recommend that the bill do not pass.

All of which is respectfully submitted.

R. W. MIMMS, *Chairman.*

On motion of Mr. Buck, the report was received and adopted.

It was ordered by the Speaker that the Governor's Message was referred as recommended by the Committee.

Mr. Rogers moved that H. B. No. 1 be read the third time, and put upon its final passage.

Ayes and nays demanded.

Roll called. Ayes, 10 ; Nays, 6.

Those voting in the affirmative were : Messrs. Buck, Clanton, Gallaher, Gorham, McMannus, McMurtry, Mimms, Rhodes, Rogers, and Wylie—10.

Those voting in the negative were : Messrs. Blakely, Donegan, Johnson, Jordan, Roach, and Mr. Speaker—6.

The motion was carried.

On motion of Mr. Wylie, the House adjourned to 10 o'clock, A. M., to-morrow.

A. E. MAYHEW,  
*Speaker.*

A. H. BARRET,  
*Chief Clerk.*



## FIFTH DAY.

NOVEMBER 9, 1866.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—absent, Messrs. Owen, Gallaher, and Snelling.

Minutes of yesterday read and approved.

Mr. Donegan gave notice that he would, on to-day or to-morrow, introduce a bill entitled "An Act to provide for the formation of corporations for certain purposes."

Mr. Johnson, in pursuance of previous notice, introduced H. B. No. 5, "An Act to change the county seat of Missoula county, and legalize the acts of the county commissioners of said county."

Read first time.

Mr. McMurtry moved to reject the bill. Withdrawn.

Read second time.

Mr. McCullough moved to postpone indefinitely. Carried.

In pursuance to previous notice, Mr. McCullough introduced H. B. No. 6, "An Act to amend an act entitled an act creating the office of assessors and defining their duties, approved April 2, 1866."

Read first and second time, and on motion of Mr. Mimms, fifty copies were ordered printed.

Mr. Mimms, according to previous notice, introduced H. B.

No. 7, "An Act to suppress gaming in the Territory of Montana, and fixing the fines and penalties of the same."

Read first and second time, and fifty copies ordered printed.

In accordance with previous notice, Mr. Van Hagan introduced H. B. No. 8, "An Act to change the name of Muscleshell county and county seat."

Read first and second time, and referred to Committee on Towns and Counties.

Mr. McMurtry introduced H. B. No. 9, without previous notice, "An Act to repeal an act entitled an act to prevent pasturing stock on winter grass lands in Deer Lodge county, Montana Territory, approved April 12, 1866."

Read first and second time, and on suspension of the rule, read third time, and passed by the following vote:

Roll called.

Those voting in the affirmative, were—Messrs. Andrews, Blakely, Buck, Clanton, Donegan, Esler, Gorham, Johnson, Jordan, McCullough, McMannus, McMurtry, Mimms, Rhodes, Roach, Rogers, Smith, and Wylie—18.

Nays—None.

Title agreed to.

Mr. McCullough offered the following resolution:

*Resolved*, That the Secretary of the Territory be requested to furnish the members of this House with printed copies of the laws passed at the First Session of the Legislature of this Territory, or information concerning the same.

Which was adopted, and the Chief Clerk instructed to furnish the Secretary with a copy of the same.

Mr. Wylie introduced the following resolution:

*Resolved*, That the Clerk of the House be instructed to receive no communication for this House, unless the same be directed to the Speaker of the House.

Mr. Wylie withdrew the resolution.

Mr. McCaleb came forward and was sworn in as Enrolling Clerk of this House.

H. B. No. 1, "An Act entitled an act to amend an act relating to trout fishing," was taken up, and read the third time, and lost by the following vote:

Roll called.

Those voting in the affirmative, were—Messrs. Blakely, Buck, Johnson, Jordan, McMannus, McCullough, and Clanton—7.

Those voting in the negative, were—Messrs. Andrews, Donegan, Esler, Gorham, McMurtry, Mimms, Rhodes, Roach, Rogers, Smith, Van Hagan, Wylie, and Mr. Speaker—13.

H. B. No. 2, "An Act regulating the sale of horses, mules and cattle at auction in Montana Territory," was taken up, and, on motion of Mr. McCullough, was indefinitely postponed.

On motion of Mr. Rogers, the House adjourned to 2 o'clock, P. M.

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#### AFTERNOON SESSION.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—absent, Messrs. Gallaher, Owens, and Clanton.

Mr. Smith in the chair.

On pending motion of Mr. Smith, to strike from the roll the names of absent members—

The following communication was received from the Council:

COUNCIL HALL, }  
VIRGINIA CITY, Nov. 9, 1866. }

*To the Hon. Speaker of the House of Representatives :*

SIR—I am directed by the Council to inform your honorable body of the following notices:

Mr. Chiles gave notice that, on to-morrow or some subsequent day, he would introduce a bill for "An Act to amend an act entitled an act concerning divorce and alimony."

Also, Mr. Waterbury gave notice that on to-morrow or some subsequent day, he would introduce a bill authorizing John Wilson and R. E. Eddy to establish and maintain a ferry across the Missoula river."

Also, pursuant to notice, Mr. Chiles introduced C. B. No. 5, "Authorizing G. O. Humphreys and Wm. Allison, their heirs and assigns, to construct a ditch and take the water from Deer Lodge Creek for mining purposes."

Also, pursuant to notice, C. B. No. 6, "An Act entitled an act concerning landlords and tenants."

Also, resolution by Mr. Spratt:

*Resolved*, By the Council, the House concurring therein, that a Joint Committee of two from the Council and two from the House be appointed, whose duty it shall be to ascertain the number and character of books belonging to this Territory now held by the various express offices for non-payment of charges of freight, and the amount due thereon, and to whom they are directed.

Adopted.

Messrs. Spratt and Lowry were appointed as such committee on the part of the Council.

Respectfully,

WM. Y. LOVELL,

*Chief Clerk.*

Mr. McCullough moved to amend Mr. Smith's motion so as to instruct the Clerk to omit calling the names of the absentees.

Amendment accepted, and the motion adopted.



Mr. Rogers moved that a Committee be appointed to inquire as to who had forfeited their seats as members of the House under the organic act, and report the fact to the Governor. Lost.

The following communication from the Secretary of Montana was received :

SECRETARY'S OFFICE,  
MONTANA TERRITORY, Nov. 9, 1866. }

*To the Hon. the Speaker of the House of Representatives:*

SIR—In compliance with House Resolution No. 2, requesting me to furnish the House with a statement of the highest number of votes cast in each county at the last general election, held on the first Monday of last September, I have the honor to communicate to the House of Representatives, in the accompanying paper, the desired information.

And have the honor to be,

Very truly,

Your obedient servant,

THOMAS FRANCIS MEAGHER,

*Sec'y of Territory of Montana.*

Abstract of votes polled in the several counties of the Territory of Montana at the general election, held the first Monday of September, 1866:

Madison .....	1,617
Deer Lodge .....	908
Edgerton .....	2,206
Meagher .....	821
Beaver Head....Esler.....	203
“ .....	201
“ .....	201
Chouteau .....	None.
Muscleshell .....	“
Jefferson .....	218
Gallatin .....	267
Missoula .....	198

Total votes polled in the Territory .....6,639

THOMAS FRANCIS MEAGHER,

*Secretary Montana Territory.*

The following communication was received from the Secretary of the Territory :

SECRETARY'S OFFICE, }  
MONTANA TERRITORY, Nov. 7, 1866. }

*To the Hon. Speaker of the House of Representatives :*

SIR—In compliance with the request conveyed to me in House Resolution No. 1, I have the honor to transmit herewith, "an abstract of the title of all bills of a general nature passed by the Bannack Legislature."

And I have the honor to be,

Your obedient servant,

THOMAS FRANCIS MEAGHER,

*Secretary of Montana Territory.*

On motion of Mr. Donegan, fifty copies of the "Abstract of titles," were ordered printed.

Mr. Mimms moved to appoint a Committee of two from the House, to act with a like Committee from the Council, to ascertain how many and what books were held in the various express offices for non-payment of charges. Adopted.

The Speaker appointed Messrs. Mimms and Esler as such Committee.

Mr. McCullough moved that the House take a recess for thirty minutes. Lost.

Mr. McMannus moved to adjourn. Lost.

Mr. McCullough offered the following resolution :

*Resolved,* That the Chief Clerk of this House be instructed to furnish "an abstract" of the proceedings of this House twice each day to the Council, say, at 10 o'clock, A. M., and at 2 o'clock, P. M.

Mr. Roach moved to amend by striking out the figure "2," in last line, and insert "3." Accepted.

Mr. McMannus moved to lay the resolution and amendment on the table to 2 o'clock, to-morrow. Carried.

Mr. Esler moved to adjourn.

Mr. McCullough moved to lay the motion to adjourn on the table. Lost.

Ayes and nays were then demanded on the motion to adjourn.

Roll called.

*Ayes*—Messrs. Blakely, Buck, Clanton, Donegan, Esler, Gallaher, Jordan, McManus, Roach, Smith, and Van Hagan—11.

*Nays*—Messrs. Gorham, Johnson, McCullough, Mimms, Rogers, and Wylie—6.

And the House adjourned to 10 o'clock A. M. to-morrow.

A. E. MAYHEW,

*Speaker.*

A. H. BARRET,

*Chief Clerk.*

## SIXTH DAY.

NOVEMBER 10, 1866.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called.

Minutes of last meeting read and approved.

Mr. McCullough, chairman of Committee on Incorporations, made the following report :

MR. SPEAKER—Your Committee on Incorporations, to whom was referred H. B. No. 4, have examined the same, and beg leave to make the following report :

We herewith return the bill to the House, and respectfully recommend its passage, after being amended as follows :

In section 1, line 6, strike out the words "five miles," and insert, in lieu of the same, "eighty rods;" also, same section, lines 8 and 9, strike out the words "twenty years," and insert "five years." Strike out all the remainder of section 1.

In section 2, line 1, after the word "exceed," strike out the words "twenty years," and insert "five years." Also, in lines 10 and 11, strike out the words "four dollars," and insert "two dollars and fifty cents." After the word "additional," in line 11, strike out the words "annual or," in line 12. In line 13, strike out the words "one dollar," and insert "fifty cents." Strike out all after the word "dollars," in line 13, of lines 13, 14, and 15, and insert, in lieu of the same, "for man and horse fifty cents; for

each pack animal forty cents." Also, in line 18, strike out the words "one dollar," and insert "twenty-five cents." In line 20, same section, strike out the word "fifty," and insert "twenty-five cents."

Strike out all of section 4, and insert the following in lieu of the same :

"SEC. 4. This act may be altered, modified or repealed at any subsequent session of the Legislature."

J. L. McCULLOUGH, *Chairman.*

Report received.

Mr. McMurtry made the following report from the Committee upon Judiciary, which was received :

MR. SPEAKER—Your Committee on Judiciary, to whom was referred House Bill No. 3, beg leave to report the same back to the House, and recommend that it be referred to a Committee of the Whole House.

L. McMURTRY, *Chairman.*

Mr. McCullough, from the Committee on Incorporations, made the following report, to wit :

MR. SPEAKER — Your Committee on Incorporations, to whom was referred a petition from the people of Madison county, praying this Legislative Assembly at its earliest convenience, to carefully consider the propriety of passing a general incorporation act during the present session of the Legislature, beg leave to submit the following report :

We have given this subject our most mature investigation, and would most respectfully recommend the passage of a general incorporation act, feeling well assured, from the evidence furnished from not only Madison county, but from the numerous testimonials presented us from the various portions of the Territory, that a law of this character, if surrounded by proper safeguards, would meet the approval of a large majority of the enterprising population of the Territory, and encourage and assist in the development of both the agricultural and mineral resources of a Territory of recent birth, yet surpassed by none in mineral wealth, and but few, if any, in agricultural. Also, being pos-



sessed of so many natural advantages for manufacturing, and situated as we are, so far from the base of supplies, a law of this kind will evidently, in the opinion of your Committee, encourage emigration, introduce capital into our Territory, go far to reduce the present exorbitant prices of the necessities of life, enhance the value of property, empower the miners and manufacturers now resident to form companies, thus enabling them to develop and to bring into requisition the latent wealth that might otherwise remain undiscovered for centuries yet to come. The passage of such an act would at once cut off all that class of legislation so familiarly known as granting charters, thus affording ample time in the future for revising the laws of a general nature. But, in conclusion, would recommend and respectfully suggest the propriety of so framing the law referred to, as to apply more especially to the mining and manufacturing interests of the Territory, these being the paramount and sustaining pursuits of a very large majority of the citizens for whom we are called to legislate. Further, we would suggest the propriety of having a select committee appointed by the Speaker of this House, to meet and confer with a like committee of the Council, and should they deem it advisable, prepare an act of general incorporation, and present the same to the Legislative Assembly at their earliest convenience, that ample time may be given the members before voting on a law so grave in its character, and so vitally affecting the interests of Montana Territory.

J. L. McCULLOUGH,

J. B. WYLIE,

A. J. SMITH,

*Committee.*

Notice of the introduction of the following bills was given:

By Mr. Essler—"An Act in relation to bridges over mining and farm ditches."

By Mr. Roach—"An Act to amend an act entitled an act defining the duties of county treasurer, and the payment of county warrants, approved March 14th, 1866."

By Mr. McMurtry—"An Act authorizing Constant Guyas to

construct a toll road from the Little Blackfoot river to Helena City."

By Mr. Johnson—"An Act entitled an act to amend an act entitled an act relating to trout fishing."

By Mr. Smith—"An Act to establish the boundary line between Madison and Beaver Head counties."

By Mr. McCullough—"An Act to change the time of holding the annual election."

By Mr. Mimms—"An Act to invest religious societies with certain powers of bodies corporate."

Mr. Donegan introduced H. B. No. 10, in pursuance of previous notice, "An Act to provide for the formation of corporations for certain purposes."

Rule suspended, and the bill read first time by its title. Read second time, and, on motion of Mr. Smith, the bill was laid on the table.

In pursuance of previous notice, H. B. No. 11 was introduced, "An Act defending and maintaining possessory rights upon the public domain in Montana Territory."

Read first and second time.

Mr. Johnson moved to lay the bill on the table. Lost.

On Mr. Mimms' motion to have fifty copies printed, the ayes and nays were called.

Those voting in the affirmative were—

Messrs. Blakely, Buck, Donegan, Gallaher, Jordan, McCullough, and Mimms—7.

Those voting in the negative were—

Messrs. Andrews, Clanton, Esler, Johnson, McMannus, McMurtry, Rhodes, Roach, Rogers, Smith, Van Hagan, Wylie, and Mr. Speaker—13.

And the motion was lost.

Mr. McCullough moved to refer the bill to a Select Committee.  
Lost.

On motion of Mr. Rogers, H. B. No. 11 was then referred to the Committee on Public Lands.

Mr. Smith introduced the following resolution :

*Resolved*, That the Secretary be requested to allow the members of the House to select their own newspapers allowed them and paid for by the General Government.

Which was adopted.

Mr. Wylie introduced the following concurrent resolution :

*Resolved*, By the House of Representatives, the Council concurring, that a Committee of three from the House, and two from the Council, be appointed, to memorialize Congress to amend the organic act, so as to give justices of the peace jurisdiction of matters in controversy to the amount of five hundred dollars.

Resolution adopted, and the following named were appointed such Committee on the part of the House: Messrs. Wylie, Van Hagan, and Buck.

Mr. Donegan introduced the following resolution :

*Resolved*, That fifty copies of the report of the Committee on Incorporations, in relation to an act of general incorporation, be printed.

On motion of Mr. Johnson, the resolution was laid on the table.

Mr. Mimms introduced the following resolution :

*Resolved*, By the House of Representatives of Montana Territory, that no smoking be allowed within the bar of this House.

Which was, on motion, adopted.

SECRETARY'S OFFICE,  
VIRGINIA CITY, M. T., Nov. 9, 1866. }

*To the Hon. the Speaker of the House of Representatives:*

SIR—I have the honor to acknowledge the receipt, this afternoon, of a resolution, communicated to me by the Chief Clerk of your honorable House, requesting me “to furnish to the members of the House of Representatives, printed copies of the laws passed at the first session of the Legislature of this Territory, or information concerning the same.”

In complying with this request, as I do—and shall always do whilst I retain the Secretaryship of Montana—most readily and cheerfully, and with all the etiquette which my very limited knowledge of parliamentary usages will permit, I beg leave, in the first place, to inform the House of Representatives, that the printed laws passed at the first session of the Legislature of Montana, have not, up to this date, reached this city.

In the second place, owing, it clearly seems to me, to the improvident arrangements of the learned gentleman who was charged with the printing and forwarding of these laws, as, also, our financial relations with the Treasury Department at Washington have been thrown upon, as I have been reliably informed, the malicious and extremely wicked misrepresentations of some parties in our Territory who are unscrupulously hostile to the legislative rights and privileges of Montana, solely for the reason that these rights and privileges are enjoyed and exercised by men of liberal and national principles, I deeply regret to say, that the laws asked for are detained at Denver City, Colorado Territory, and that, at the present moment, it is not in my power to have them dispatched to their destination.

The very first duty I took in hand, on my reaching this city, the first or second of October, 1865, was to put these laws in the hands of a competent printer, so that they might be in the possession of the Territory long before this, and in this duty I was most ably and indefatigably assisted by Mr. David H. Hopkins, who for nearly a year acted as my private secretary.

The accompanying letter, addressed a day or two ago to Mr. Neally, the U. S. Assistant District Attorney of Montana, will inform the House of Representatives of my action in relation to the publication of the laws in question, whilst it furnishes the House all the information it is in my power, at this date, to afford it, in relation to a matter so essentially interesting and important to the Territory and its Representatives.

In justice to myself, however, I beg leave to add, that immediately on my returning here, from three or four months absence in the north-west portion of our Territory, I sent a dispatch to Denver City, to Messrs. J. Garside & Co., Denver City, Colorado Territory, who hold our printed laws for freightage, etc., requesting these gentlemen to forward twelve copies of the same by express, with all practicable expedition; and I beg leave further to add, that I accompanied the dispatch to this effect with drafts on the sub-treasury of New York, sufficient to cover the expenses of storage and freightage to this their proper and original destination.

I did this, so that there might be distributed through the Territory, and placed in the hands of those who most required them for the public use and benefit, a few copies, at all events, of the laws upon which so many interests, and the well-understood and well-ordered condition of our Territory depends.

In the event of this communication proving unsatisfactory, so far as I have replied to the resolution of the House, it will give me sincere pleasure, as it is my duty, to comply more fully with the wishes of the House, should it be in my power to do so.

I have the honor to be,

Mr. Speaker,

Most respectfully and truly,

Your obt. servant,

THOMAS FRANCIS MEAGHER,

*Secretary, Montana Territory.*



SECRETARY'S OFFICE, TERRITORY OF MONTANA, }  
VIRGINIA CITY, November 9, 1866. }

TO EDWARD B. NEALLY, ESQ.,

Assistant U. S. District Attorney, etc.:

*Dear Sir*—Since the middle of June last I have been absent from here, having had to visit different, and remote, parts of the Territory, principally on official business. I returned here about a fortnight ago. On my return, was handed your several letters respecting the printing of the laws, etc.

Had these laws been sent by steamboat from St. Louis, they would have reached their destination long ago, and there would have been no delay in their delivery on account of storage, etc. As it is, they are still in Denver City, Colorado Territory, and I have no means to extricate them.

I considered the check for \$3,000, which I sent you long ago, ample for all the expenses incidental to the printing and forwarding of the laws in question.

You ask me, in your letter of the 7th of September, to make a requisition on the Comptroller of the Treasury at Washington, for \$6,000 on the above account.

I do not feel myself justified in doing so.

I consider \$3,000 fully sufficient for all such expenses, including your own, for superintending and indexing the publication. It is not necessary, of course, to remind you, that long before I gave these laws into your charge, and that you undertook to see them properly arranged and printed, you had made your arrangements to go to the States, and that you would have left the Territory whether you had received any commission from me or not.

Consequently I do not consider you entitled to any compensation beyond that for the time and care you bestowed upon the supervision, etc., of the work.

As for the printing, etc., I hold that \$3,000 is an ample amount, —ample enough indeed to have placed our laws here, in this very office, in the best order, and, with reasonable promptitude, early in the summer.

Such being my conviction, and not having as yet received from you a single line setting forth expenses, either estimated or incurred, I respectfully decline to forward to the Comptroller of

the Treasury a requisition for more than the \$3,000, a check for which, as I have already said, has been in your possession several months, and which a letter from you, in March last, informed me would be cashed by the Treasury the moment my bonds were filed in that department. These bonds having been filed there the latter end of that month, I do not see what prevented your check for \$3,000 being cashed long before this.

I enclose, however, a requisition to the Comptroller for the payment of the \$3,000 check, and upon your rendering me a statement of expenses for the printing, supervision, indexing, etc., of the laws referred to, I shall favorably consider the propriety of my sending you an additional sum, but not till then.

As for my getting the printed laws, now blockaded in Denver City, up here, I don't see how I can possibly contrive their release, until the Government places some funds or other at my disposal.

I am,

Very respectfully yours,

THOMAS FRANCIS MEAGHER,  
*Secretary, Territory of Montana.*

And, on motion of Mr. Wylie, was referred to the Joint Committee on Laws.

H. B. No. 3 was taken up, and, on motion of Mr. Smith, was referred to the Committee of the Whole House, at 2½ o'clock this P. M.

H. B. No. 4 was taken up, and, on motion of Mr. Smith, was referred to the Committee of the Whole, to be considered in its regular order.

On motion of Mr. Johnson, the House adjourned to 2 o'clock, P. M.

## AFTERNOON SESSION.

House met in pursuance of adjournment Mr. Speaker in the chair.

Roll called—Quorum present.

Special order for 2 o'clock, P. M., being the consideration of House Resolution No. 14, the same was taken up, and read.

Mr. Wylie moved to adopt.

Mr. McMannus moved to amend by inserting the words "once each day, at 11 o'clock, A. M." instead of "twice each day, at 10 A. M., and 3 o'clock, P. M. Lost.

Mr. McCullough moved to postpone the resolution indefinitely. Carried.

The hour having arrived at which H. B. Nos. 3 and 4 were to be considered in Committee of the Whole, the House resolved itself into Committee of the Whole, to consider said bills.

Mr. Johnson in the chair.

Mr. Mayhew moved that the Committee arise, and report progress.

House resumed its session.

Mr. Speaker in the chair.

Mr. Johnson asked leave until Monday morning, 10 o'clock, to report, as chairman of Committee of the Whole, on H. B. No. 3 and H. B. No. 4, which leave was granted.

Mr. Andrews, chairman of the Committee on Printing, made the following report :

*Mr. Speaker:*

SIR—Your Committee on Printing, to whom was referred the list of laws of a general nature passed by the Bannack Legislature, beg leave to report, that they have discharged their duty, and find the same correctly printed.

R. W. ANDREWS, *Chairman.*

Report was, on motion, received.

On motion of Mr. Johnson, the House adjourned to 10 o'clock, A. M., on Monday.

A. E. MAYHEW,  
*Speaker.*

A. H. BARRET,  
*Chief Clerk.*

## EIGHTH DAY.

NOVEMBER 12, 1866.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—absent, Messrs. Andrews, Donegan, McCullough, Owens, Snelling, and Rogers.

Minutes of Saturday read and approved.

Mr. McCullough presented petition No. 2 from the citizens of Gallatin county.

Petition received, and, on motion of Mr. McMurtry, referred to a Select Committee of two from the delegation of Gallatin county. Mr. Speaker appointed Messrs. Blakely and Gallaher as such Committee.

Mr. McCullough also presented petition No. 3 from citizens of Gallatin county.

Petition received and referred to Select Committee from the members of Gallatin county.

Mr. Van Hagan, chairman of Committee on Towns and Counties, reported as follows, on H. B. No. 8, "An Act to change the name of Muscleshell county and county seat:"

MR. SPEAKER—The Committee on Towns and Counties, to whom was referred H. B. No. 8, report that they have examined the bill and report it back to the House and recommend that it pass.

J. B. VAN HAGAN, *Chairman.*

Report received.



Mr. Blakely made the following report on Printing :

MR. SPEAKER—Your Committee on Printing, to whom was referred H. B. Nos. 6 and 7, beg leave to report that the same have been printed, and examined by us and found to be correct.

C. P. BLAKELY, *Chairman.*

Mr. Van Hagan gave notice that he would, on to-morrow or some future day, introduce "A Bill to authorize H. C. Graves, Thomas Burden and their associates to construct and maintain a toll road from Lorain's bridge, on the Big Hole river, on the road leading from Virginia City to Cottonwood, in Deer Lodge county, then by the most direct and practicable route to Red Mountain City or Highland Gulch."

Mr. McMurtry, in pursuance previous to notice, introduced H. B. No. 12, "An Act authorizing Constant Guyas to establish a toll road from the Little Blackfoot river to Helena City."

Read first and second time, and referred to a Select Committee of three, consisting of Messrs. McMurtry, Mimms, and Andrews.

Mr. McCullough introduced the following resolution :

*Resolved,* That the Joint Committee appointed prepare a memorial asking Congress to so amend the organic act as to increase the jurisdiction of justices of the peace, be and are hereby requested and instructed to pray Congress to amend the organic act so as to increase the jurisdiction of the probate courts of this Territory in all civil actions, giving to them co-extensive jurisdiction with the territorial district courts.

Mr. McMurtry moved to lay on the table. Carried.

Mr. Mimms introduced H. J. Resolution No. 1, "Relating to the commissioners appointed to settle with the late Territorial Auditor and Treasurer of the Territory of Montana."

Read first and second time, and the rule suspended, read third time, and passed by the following vote :

Those voting in the affirmative, were—Messrs. Andrews, Blakely, Buck, Clanton, Donegan, Esler, Gallaher, Gorham, Johnson,

Jordan, McCullough, McMannus, McMurtry, Mimms, Rhodes, Roach, Rogers, Smith, Van Hagan, Wylie, and Mr. Speaker—21.

*Nays*—None.

House Bill No. 8 was then taken up.

Mr. Mimms moved that H. B. No. 8 be made the special order for 2½ o'clock, this P. M., in Committee of the Whole House. Lost.

The following communication was received from the Council :

COUNCIL HALL,  
VIRGINIA CITY, MONTANA TERRITORY. }

*To the Hon. the Speaker of the House of Representatives :*

I am directed by the Council to inform your honorable body, that C. B. No. 13, entitled "An Act to amend an act to incorporate the town of Montana City, in Beaver Head county, Montana Territory," was read first and second time, rules suspended, bill read third time, and passed.

The original herewith presented.

Respectfully,

WM. Y. LOVELL,

*Chief Clerk.*

Mr. Mimms moved to amend H. B. No. 8, as follows :

Insert the following as a new section :

SEC. 3. That all acts and parts of acts, in conflict with the provisions of this act, be, and the same are hereby repealed.

Change section 3 to section 4.

Carried.

On motion of Mr. McCullough, the bill, as amended, was adopted.

The bill was then ordered engrossed for a third reading.

The following message was received from the Council:

COUNCIL HALL,  
VIRGINIA CITY, Nov. 12, 1866. }

*To the Hon. the Speaker of the House of Representatives:*

SIR—,I am directed to inform your honorable body of the notice of the introduction of the following bills:

By Mr. Lowry—"A Bill for an act providing for increased compensation to the officers of the Territory."

By Mr. Waterbury—"An Act to repeal certain sections of an act entitled an act defining the duties of county treasurer, and payment of county warrants."

By Mr. Chiles—"An Act to incorporate the Clark's Fork and Fort Benton Wagon Road Company."

Mr. Spratt, in accordance with previous notice, introduced C. B. No. 9.

Mr. Waterbury, in accordance with previous notice, introduced C. B. Nos. 10 and 11.

Mr. Brown introduced the following resolution:

*Resolved*, By the Council, the House concurring, that the Auditor and Treasurer of the Territory be requested to make a complete statement of the revenue fund, income, taxable property and other resources of the Territory, and report the same at an early day for the consideration of said body, and the presiding officer of each House, shall appoint a Committee of one from each House to wait upon said officers and inform them of this request.

The President appointed A. A. Brown such Committee on the part of the Council.

House Bill No. 9, being "An Act to repeal an act entitled an act to prevent pasturing stock on winter grass lands in Deer Lodge county, Montana Territory."

Bill read first and second time.

On motion of Mr. Brown, the bill was amended by striking out "1860," and inserting "1866."

Bill read third time, as amended, and passed by the Council.

Mr. Brown offered the following resolution :

*Resolved*, By the Council, the House concurring, that a Joint Committee of two from the Council and two from the House be appointed a Committee to memorialize Congress to pass a law, extending the jurisdiction of justices of the peace in Montana Territory in civil cases to five hundred dollars."

The above resolution was, by the Council, referred to the Judiciary Committee.

Respectfully,

WM. Y. LOVELL,

*Chief Clerk.*

On motion of Mr. Blakely, the House adjourned to 2 o'clock,  
P. M.

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#### AFTERNOON SESSION.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—Quorum present.

Mr. Johnson reported from the Committee of the Whole, as follows :

MR. SPEAKER—The Committee of the Whole House having had H. B. No. 4 under consideration, direct me to report the following amendments, viz. : To so amend section 1 as to read as follows :

"That Ray W. Andrews is authorized and empowered to establish, maintain and operate a ferry across the Missouri river

at or near the mouth of the Muscleshell river, for the term of fifteen years from the passage of this act, and shall be entitled to the exclusive control of the banks of said river, for a distance of two miles and a half each way from the point where said ferry shall be located, together with all the privileges, and subject to the conditions prescribed by law and by this act."

To amend section 2 by striking out the word "twenty" in the 1st line and inserting the word "fifteen."

To amend section 4 by inserting at the end of the section, the words "This act may be altered, modified or repealed at any subsequent session of the Legislature."

Also, having had under consideration H. B. No. 3, direct me to report the same back to the House without amendment, with the recommendation that it be recommitted to the Committee on Judiciary.

Respectfully submitted,

W. W. JOHNSON, *Chairman.*

Report received, and adopted.

Mr. McCullough moved that the report as to H. B. No. 4 be adopted, and the bill engrossed. Carried.

Mr. McCullough moved that the report as to H. B. No. 3 be adopted. Carried.

H. B. No. 4 was then ordered engrossed, and H. B. No. 3 recommitted to the Committee on Judiciary.

On motion of Mr. Mimms, the House resolved itself into Committee of the Whole to consider House Bills Nos. 6 and 7.

Mr. Johnson in the chair.

On motion of Mr. Mayhew, the Committee arose.

House resumed. Speaker Mayhew in the chair.

Mr. Johnson, chairman of Committee of the Whole, made the following report:



MR. SPEAKER—The Committee of the Whole House having had House Bills Nos. 6 and 7 under consideration, direct me to report H. B. No. 6 back to the House and recommend that it be referred to the Committee on Judiciary.

And that H. B. No. 7 be reported back to the House, and recommend that it be indefinitely postponed.

W. W. JOHNSON, *Chairman*.

Report received.

Mr. McCullough moved its adoption, and,

On the adoption of the report, Mr. Mimms called for a division of the question.

The report was then adopted as to H. B. No. 6, and referred to the Committee on the Judiciary.

On the adoption of the report as to H. B. No. 7, the ayes and nays were demanded.

Roll called.

Those voting in the affirmative, were—Messrs. Andrews, Buck, Clanton, Esler, Gorham, Johnson, McCullough, McMannus, McMurry, Rhodes, Roach, Rogers, Smith, Van Hagan, Wylie, and Mr. Speaker—16.

Those voting in the negative, were—Messrs. Donegan, Gallaher, Jordan, and Mimms—4.

And the report was adopted, and H. B. No. 7 was indefinitely postponed.

Mr. Smith, chairman of the Committee on Engrossment, reported H. B. No. 8 as correctly engrossed.

House Bill No. 8, "An Act to change the name of Muscleshell county and county seat," was then taken up, and read the third time, and passed by the following vote:

Those voting in the affirmative, were—Messrs. Andrews, Buck, Clanton, Donegan, Esler, Gallaher, Gorham, Johnson, Jordan, McCullough, McMurry, McMannus, Mimms, Rhodes, Rogers, Smith, Van Hagan, Wylie, and Mr. Speaker—19.

Nay—Mr. Roach.

The title of the bill was agreed to.

C. B. No. 13, "An Act to amend an act entitled an act to incorporate the town of Montana City, in Beaver Head county, Montana Territory," was taken up and read first and second time, rules suspended, read third time, and passed by the following vote:

Roll called.

Those voting in the affirmative, were—Messrs. Andrews, Buck, Clanton, Esler, Johnson, Jordan, Gorham, McCullough, McMannus, McMurtry, Mimms, Rhodes, Roach, Rogers, Smith, Van Hagan, and Wylie—17.

Those voting in the negative, were—Messrs. Donegan, Gallaher, and Mr. Speaker—3.

The title was then agreed to.

The following communication was received from the Secretary:

SECRETARY'S OFFICE, MONTANA TERRITORY, }  
November 12, 1866. }

*To the Hon. the Speaker of the House of Representatives:*

SIR—I have the honor to inform you, in relation to the resolution asking me about the laws of the first legislature of Montana, that I this day received the accompanying letter from the parties in whose hands the laws in question were accidentally detained; and I trust that I will be permitted to express to the House my belief, that, within the next ten days or a fortnight, the laws of Montana, passed at the first Legislature sitting in Bannack City, will be in possession of the people of the Territory.

I have the honor to be, very respectfully,

Your obedient servant,

THOMAS F. MEAGHER.

DENVER CITY, COL., Oct. 30th, 1866. }

*Hon. T. F. Meagher, Secretary of Montana, Virginia City, Montana:*

DEAR SIR—Your favor of October 15th, 1866, enclosing your

drafts 176 and 177, for \$171.71, and \$50, respectively, on the Assistant United States Treasurer, received this day.

Enclosed herewith we return both drafts, as we are informed by Messrs. Daniels & Brown that your boxes were forwarded from this city on the 26th ultimo.

Yours, very respectfully,

WOOLWORTH & MOFFATT,

For C. J. Clark.

H. B. No. 9 was then taken up, the Council amendment was concurred in, and the bill ordered enrolled.

Mr. Mimms moved that a Committee of one be appointed on the part of the House, to act in conjunction with a like Committee of the Council, to request the Auditor and Treasurer to make a complete statement of the revenue fund of the Territory. Carried.

The Speaker appointed Mr. Mimms on the part of the House.

Mr. McMannus moved to adjourn. Lost.

Mr. Clanton gave notice that he would, on to-morrow or some future day, introduce "A Bill to incorporate the Missouri River Boom and Lumber Company."

The Clerk was instructed to return C. B. No. 13 and H. B. No. 9 to the Council, and request that the proper endorsements be endorsed upon them.

Mr. Wylie moved to adjourn to 10 o'clock, A. M., to-morrow upon which the ayes and nays were demanded.

Roll called.

Those voting in the affirmative were: Messrs. Buck, Clanton, Gallaher, Gorham, Jordan, McMannus, McMurtry, Mimms Rhodes, Smith, Van Hagan, Wylie, and Mr. Speaker—13.

Those voting nay were: Messrs. Andrews, Donegan, Esler, Johnson, McCullough, Roach, and Rogers—7.

And the House adjourned to 10 o'clock, A. M., to-morrow.

A. E. MAYHEW,  
*Speaker*

A. H. BARRET,  
*Chief Clerk.*

## NINTH DAY.

NOVEMBER 13, 1866.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—absent, Messrs. Andrews, Clanton, Donegan, Galaher, McCullough, and Smith.

Mr. Mimms made report as follows, from Joint Committee from the two Houses, to wit:

MR. SPEAKER—The Joint Committee, to whom was referred the matter of calling on the Auditor and Treasurer of the Territory, and to ascertain when their respective reports would be ready, have performed their duty, and respectfully submit the following as the report of the Committee:

Your Committee were requested to state, on behalf of the Auditor and treasurer, that their reports have been ready for several days. The Treasurer further states to your Committee that, owing to the delinquency of the treasurer of Beaver Head county, and the desire of the delegation from that county, and others, it has been deemed advisable to delay the report for a few days, in order that the said delinquent treasurer may be required to make his report. That their reports will be sent in in the course of a few days.

All of which is respectfully submitted.

R. W. MIMMS.

On motion of Mr. Buck, the report was received, and the Committee discharged.

The following report was received from Select Committee, to wit:

MR. SPEAKER—Your Select Committee, to whom was referred



H. B. No. 12, beg leave to report on same, and recommend its passage, with the following amendments, to wit:

Section 3, to be concluded as follows: "And they shall, at each terminus of said road, erect a sign board, lettered so as to indicate the said road to be a toll road, with rates of toll thereon."

Also, section four (4), to be concluded with the following amendment:

"Said tolls to be collected on the western side of the main range of the Rocky Mountains."

L. McMURTRY.

RAY W. ANDREWS.

R. W. MIMMS.

On motion of Mr. Mimms, the bill was recommitted, with the report, to the Select Committee.

Notice was then given of the introduction of the following bills:

By Mr. Andrews—"An Act to amend an act entitled an act to incorporate the Missouri River and Rocky Mountain Wagon Road and Telegraph Company."

By Mr. Mimms—"An Act entitled an act to create a common school fund."

By Mr. Buck—"An Act to amend an act entitled an act to incorporate the Bannack Ditch and Mining Company."

By Mr. Johnson—"An Act entitled an act to authorize Edwin W. Park to erect a bridge or maintain a ferry across the Bitter Root river."

Mr. Johnson, with leave, introduced House Bill No. 13, previous notice having been given this morning.

H. B. No. 13, "An Act to authorize Edwin W. Park to erect a bridge or maintain a ferry across the Bitter Root river."

Read first and second time, and referred to the Committee on Incorporations.

Mr. Smith reported House Bill No. 4 as correctly engrossed.

H. B. No. 4 was then taken up, and read the third time, and passed by the following vote: Yeas, 15; Nays, 1.

Roll called.

Those voting in the affirmative were: Messrs. Blakely, Buck, Esler, Gallaher, Gorham, Johnson, Jordan, McMannus, McMurtry, Mimms, Rhodes, Roach, Rogers, Van Hagan, and Mr. Speaker—15.

Mr. McCullough voted in the negative.

Mr. Andrews excused.

The title was agreed to.

On motion of Mr. Johnson, the House adjourned.

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#### AFTERNOON SESSION.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—absent, Messrs. Donegan, Gallaher, and Van Hagan.

Mr. McMurtry, chairman of Select Committee, made the following report:

MR. SPEAKER—Your Select Committee, to whom was referred H. B. No. 12, beg leave to report on the same, as follows:

From such information as we can gather with regard to the road to be chartered by said bill, we find that a road, as described in the bill, would be of general benefit to the traveling community; and, as described in the bill, would be a more practicable and easy route from the city of Helena and vicinity to the towns and counties west of the Rocky mountains—particularly during the spring of the year—than any other route or road traveled at the

present time. We also find the route to be shorter than the one now traveled from Helena and vicinity to the towns and counties west of the range, and one which, we think, if finished and kept in repair, as per the requirements of the bill, will be sought by the traveling public.

We, your Committee, therefore recommend the passage of the bill, with the following amendments :

Section three (3) to be concluded as follows : "And they shall, at each terminus of said road, erect a sign board, so as to indicate the same to be a toll road."

Also, section 5, to be concluded as follows : "Said tolls to be collected on the west side of the main range of the Rocky mountains."

L. McMURTRY.

RAY W. ANDREWS.

R. W. MIMMS.

On motion of Mr. Buck, the report was received.

On motion of Mr. Jordan, the House resolved itself into Committee of the Whole to consider H. B. No. 12. Mr. Johnson in the chair.

House resumed. Mr. Speaker in the chair.

On motion of Mr. McCullough, the House adjourned to 10 o'clock to-morrow.

A. E. MAYHEW,  
*Speaker.*

A. H. BARRET,  
*Chief Clerk.*

## TENTH DAY.

NOVEMBER 14, 1866.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—Quorum present.

Mr. McMurtry made the following report on H. B. No. 3 :

MR. SPEAKER—Your Committee to whom was referred H. B. No. 3, beg leave to report on same, and recommend that it do not pass.

L. McMURTRY, *Chairman*.

The following notice of the introduction of bills was received :

By Mr. McMurtry—"A Bill entitled an act to authorize John Noys, John Swartz and R. C. Clark to construct and maintain a water ditch from the first canon on the Deer Lodge river, to Butte City.

Also, "An Act to amend an act creating the office of district attorneys in each of the organized judicial districts of Montana Territory, and to define their duties, privileges, power, and fix their salaries," approved January 10, 1865.

By Mr. McCullough—"An Act to authorize L. H. Warren, H. Gassett and James St. Clair to establish a ferry across Clark's Fork."

Also, "An Act to authorize L. H. Warren, H. Gassett and James St. Clair to establish a ferry across the Big Horn river."

By Mr. Roach—"An Act to amend an act concerning limitations."

Mr. Van Hagan introduced H. B. No. 14, "An Act to authorize H. Clay Graves, Thomas Burden and their associates to construct and maintain a toll road."

Read first and second time, and referred to the Committee on Incorporations.

Mr. Clanton, in pursuance to previous notice, introduced H. B. No. 15, "An Act to incorporate the Missouri River Boom and Lumber Company."

Read first and second time, and referred to Committee on Incorporations.

Mr. Blakely introduced pursuant to previous notice:

H. B. No. 16, "An Act to authorize Charles Francisco and David P. Abbott to construct and maintain a ferry across Sun river."

Read first and second time, and referred to Committee on Incorporations.

Pursuant to previous notice, Mr. Mimms introduced H. B. No. 17, "An Act to invest religious, charitable and other societies with certain powers of bodies corporate."

Read first and second time, and 50 copies ordered printed.

Mr. A. J. Smith in the chair.

Mr. McCullough introduced Concurrent Resolution:

*Resolved*, By the House of Representatives, the Council concurring, that a Joint Committee of two from each House be appointed to draft a memorial praying Congress to repeal the act passed at the First Session of the Thirty-ninth Congress, or so much of the same as requires the owners of quartz claims in Montana Territory to do work and labor upon the same to the value of one thousand dollars to acquire a valid title to the same."

Adopted, and Messrs. McCullough and Esler appointed as such Committee.



Mr. McMurtry introduced the following resolution, which was received and adopted:

*Resolved*, By the House, the Council concurring, that a Joint Committee of three from the House and two from the Council be appointed to memorialize congress to the effect, that the Bannack and Snake Indians be consigned to a reservation, with such advantages as are usually given Indian tribes in such cases.

Adopted, and Messrs. McMurtry, Jordan and Johnson appointed as such Committee on the part of the House.

Mr. Mayhew introduced the following resolution, which was adopted:

*Resolved*, By the House of Representatives, the Council concurring, that there be a Committee of two appointed, one from the House and one from the Council, to wait upon the Code Commissioners appointed by the First Legislature to codify the laws of the Territory, and request the President of the Code Commissioners to make a full and complete report of their action and proceedings as such to the Legislature at as early a day as possible.

The chair appointed Mr. Mayhew on the part of the House.

Mr. McCullough introduced the following resolution:

*Resolved*, That all bills of a private nature be laid on the table during the next fifteen days of this session.

Which was, on motion of Mr. Esler, laid on the table by the following vote:

Roll called.

Those voting in the affirmative, were—Messrs. Andrews, Blakely, Buck, Clanton, Esler, Gallaher, Gorham, McMurtry, Rogers, Smith, and Wylie—11.

Those voting in the negative, were—Messrs. Donegan, Johnson, Jordan, McCullough, McMannus, Mimms, Rhodes, Roach, and Van Hagan—9.

Mr. Mayhew moved that the resolution be taken from the table, which was lost by the following vote :

Roll called.

Those voting in the affirmative, were—Messrs. Gorham, Johnson, McCullough, McMannus, Mimms, Rhodes, Rogers, and Wylie—8.

Those voting in the negative, were—Messrs. Andrews, Blakely, Buck, Clanton, Donegan, Esler, Gallaher, Gorham, Jordan, McMurtry, Roach, Smith, Van Hagan, and Mr. Speaker—14.

H. B. No. 3 was taken up.

Mr. Mayhew moved to recommit the bill to the Judiciary Committee.

Which was lost.

Mr. Mimms moved to refer to a Select Committee. Lost.

Mr. Mimms moved that 50 copies be ordered printed. Lost.

The bill was then read the third time, and lost by the following vote :

Roll called.

Ayes—6. Nays—15.

Those voting in the affirmative, were—Messrs. Blakely, Gallaher, Mimms, Rhodes, Smith, and Van Hagan—6.

Those voting in the negative, were—Messrs. Andrews, Clanton, Buck, Donegan, Esler, Gorham, Johnson, Jordan, McCullough, McMannus, McMurtry, Roach, Rogers, Wylie, and Mr. Speaker—15.

The following message was received from the Council :

COUNCIL CHAMBER,  
VIRGINIA CITY, M. T., Nov. 13, 1866. }

*To the Hon. the Speaker of the House of Representatives :*

SIR—I am directed by the Council to inform your honorable body, that Mr. Waterbury gave notice of "A Bill authorizing J. A. Johnson, and Charles F. McCartry, their heirs, etc., to establish and maintain a toll bridge across the Hell Gate river."

Mr. Waterbury gave notice of the introduction of "A Bill for an act to amend an act entitled an act to incorporate the Missouri River Rocky Mountain Wagon Road and Telegraph Company."

Mr. Orr, in accordance with previous notice, introduced C. B. No. 16, being "A Bill for an act defining the jurisdiction of the several courts of this Territory and prescribing their duties."

Mr. Chiles, in accordance with previous notice, introduced C. B. No. 17, being "A Bill for an act to amend an act concerning divorce and alimony."

Mr. Chiles, in accordance with previous notice, introduced C. B. No. 18, being "A Bill for an act to incorporate Clark's Fork and Fort Benton Wagon Road Company."

C. B. No. 12, entitled "An Act prohibiting certain games," passed the Council as engrossed, and herewith presented.

Also, C. B. No. 10, being "A Bill authorizing John Wilson, and R. E. Eddy, their assigns, etc., to establish and maintain a ferry across the Missoula river," has passed the Council as engrossed, which is herewith presented.

Very respectfully,

WM. Y. LOVELL,

*Chief Clerk.*

And, on motion of Mr. Mayhew, the House adjourned to 2 o'clock, P. M.

## AFTERNOON SESSION.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—Quorum present.

C. B. No. 12 was taken up, "An Act entitled an act prohibiting certain games in Montana Territory."

Which was read first and second time, and referred to the Committee on Judiciary.

C. B. No. 10 was then taken up, "An Act authorizing John Wilson, R. E. Eddy, their heirs, associates and assigns, to establish and maintain a ferry across the Missoula river."

Read first and second time, and referred to the Committee on Incorporations.

Mr. Johnson, chairman of the Committee of the Whole, to whom was referred H. B. No. 12, reported as follows:

MR. SPEAKER—The Committee of the Whole House, having had under consideration House Bill No. 12, direct me to report the following amendments to the same:

Strike out the word "Helena," in section 1, line 15, and insert the words "its intersection with the Ten Mile and Helena road."

That sec. 3 be amended by inserting after the words "speedy and safe," the words "and they shall at each terminus of said road erect a sign board, lettered so as to indicate the same to be a toll road with the rates of tolls thereon."

That section 4 be amended by striking out "all toll on horsemen, pack animals, and loose animals of every description," and further amended by inserting at the end of said section, the words:

“Said tolls to be collected on the west side of the main range of the Rocky Mountains.”

And the Committee do recommend that the bill pass as amended by the committee.

W. W. JOHNSON,

*Chairman.*

Report was received, and, on motion of Mr. Mimms, the bill with amendments was read, and adopted by sections.

The amendments offered by the Committee of the Whole to sections 1 and 3 were then adopted.

Mr. Rogers offered the following amendments to sec. 4:

Wagons, carriages or buggy with one horse or one span of horses, or one yoke of cattle.....	\$1 00
Each additional span of horses or yoke of cattle.....	25
Each horse and rider.....	25
Pack animals with packs.....	10
Loose animals.....	5
Sheep and hogs ....	2½

Mr. [McMannus] moved to amend the amendment by striking out the words “pack animals with packs.” Upon which the ayes and nays were called.

Those voting in the affirmative, were—Messrs. Donegan, Gorham, McCullough, McMannus, Mimms, and Rhodes—6.

Those voting in the negative, were—Messrs. Andrews, Blakely, Buck, Clanton, Esler, Gallaher, Johnson, Jordan, McMurtry, Roach, Rogers, Smith, Van Hagan, Wylie, and Mr. Speaker—15.

And the amendment to the amendment was lost.

The amendment as offered by Mr. Rogers was then adopted.

Mr. McCullough offered the following amendment to section 5, which was lost:

“Strike out all of lines 1, 2 and 3 of section 5, except the word “any” in line 3.

Mr. McCullough moved to strike out the word "toll," in third line, section 1, and insert the word "wagon," which motion was adopted.

The bill was then adopted as amended, and ordered engrossed.

Mr. Gallaher, from Select Committee, made the following report:

MR. SPEAKER—The Special Committee to whom was referred certain petitions signed by citizens of Gallatin county, asking that certain persons be allowed to establish and hold certain ferries at points designated in said petition on the Big Horn and Clark's Fork rivers, on the road between Fort Laramie and the Gallatin Valley, do represent that said petitions are entitled to the respectful consideration of this House.

J. GALLAHER.

C. P. BLAKELY.

Report received, and Committee discharged.

Mr. Rogers moved to lay the petitions from citizens in Gallatin county on the table. Lost.

The following message was received from the Council:

COUNCIL CHAMBER,  
VIRGINIA CITY, M. T., Nov. 12, 1866. }

*To the Hon. Speaker of the House of Representatives:*

SIR—I am directed by the Council to inform your honorable body, that the following notices have been given in the Council, for the introduction of bills:

By Mr. Galloway—Of "A Bill for an act entitled a general revenue act, creating the office of assessors and defining their duties, approved April 2, 1866."

By Mr. Orr—Of "A Bill entitled an act relating to estrays."

By Mr. Lowry—In accordance with previous notice, C. B. No. 12, being "An Act entitled an act prohibiting certain games."

Mr. Phelps, by consent of the Council, introduced C. B. No. 13, being "A Bill to amend an act entitled an act to incorporate the town of Montana, Beaver Head county, Montana Territory."



Read first and second time, rules suspended, bill read third time, and passed by the Council.

Mr. Wilson introduced, according to previous notice, "A Bill for an act to amend an act entitled an act defining the duties of county treasurers, and payment of county warrants."

Mr. Lowry introduced, according to previous notice, C. B. No. 15, being "A Bill for an act entitled an act providing for the increased compensation to the officers of this Territory, and other persons."

Mr. Chiles, chairman of Committee on Enrollment, reported C. B. No. 4 has been correctly enrolled, and presented to His Excellency the Governor, at 10 $\frac{3}{4}$  o'clock, A. M.

Very respectfully,

WM. Y. LOVELL,

*Chief Clerk.*

Mr Buck, pursuant to previous notice, introduced H. B. No. 18, "An Act to amend an act entitled an act to incorporate the Bannack Ditch and Mining Company."

Read first and second time, and referred to the Committee on Incorporations.

Mr. Roach, in pursuance of previous notice, introduced H. B. No. 19, "An Act to amend an act entitled an act concerning limitations."

Read first and second time, and referred to the Committee on Judiciary.

Mr. Donegan gave notice that he would, on to-morrow or some future day, introduce "A Bill to incorporate the Virginia and Nevada Ditching and Fluming Company."

Mr. McCullough gave notice, that he would introduce, during the session, "A Bill for an act divorcing Lizzie Smith from A. Budd C. Smith, and changing her name to Lizzie Ryan."

Mr. Rogers gave notice that he would, on to-morrow, or some future day, introduce "A Bill providing for a jury fund, out of which petit jurors shall receive their pay as such."

Mr. Smith, from the Committee on Enrollment, reported H. B. No. 9 as correctly enrolled, and had presented the same to His Excellency the Governor for his approval.

On motion of Mr. Smith, the House adjourned to 11 A. M to-morrow.

A. E. MAYHEW,  
*Speaker.*

A. H. BARRET,  
*Chief Clerk.*

## ELEVENTH DAY.

NOVEMBER 15, 1866.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—Members all present.

Minutes of yesterday read and approved.

Mr. Blakely, from the Committee on Printing, reported H. B. No. 17 as correctly printed.

Mr. Buck gave notice that he would, on to-morrow or some subsequent day, introduce a bill entitled "An Act concerning costs in civil and criminal cases, arising in other counties than those in which said cases are tried."

Mr. McCullough reported as follows on H. B. No. 18:

MR. SPEAKER—Your Committee, to whom was referred H. B. No. 18, beg leave to report the same back to the House, and recommend that it pass.

J. L. McCULLOUGH, *Chairman*.

Report received, and bill filed, to be taken up in its regular order.

In pursuance to previous notice, Mr. McCullough introduced H. B. No. 20, "An Act divorcing Lizzie Smith, and changing her name to Lizzie Ryan."

Read first and second time, and Mr. Buck moved to refer the bill to the Committee of the Whole House, at 7 o'clock, P. M.  
Lost.

A message was received from the Governor, informing the House that he had approved H. B. No. 9, "An Act to amend an act to prevent pasturing stock on winter grass lands in Deer Lodge county."

Mr. McMannus moved that H. B. No. 20 be referred to a Select Committee. Lost.

Mr. Buck renewed his motion to refer the bill to the Committee of the Whole House, at 7 o'clock, P. M. Lost.

Mr. Mayhew moved that H. B. No. 20 be indefinitely postponed.

Roll called—ayes, 10; nays, 9.

Those voting in the affirmative were: Messrs. Andrews, Blakeley, Buck, Esler, Gallaher, Gorham, McMurtry, Smith, Van Hagan, and Mr. Speaker—10.

Those voting in the negative were—Messrs. Johnson, Jordan, McCullough, McMannus, Mimms, Rhodes, Roach, Rogers, and Wylie—9.

Mr. Johnson, in accordance with previous notice, introduced H. B. No. 21, "An Act to amend an act entitled an act in relation to trout fishing."

Read first and second time.

Mr. Johnson moved the bill be referred to the proper Committee.

Mr. Rogers moved to lay Mr. Johnson's motion on the table. Lost.

The bill was then referred to the Finance Committee.

Mr. McCullough introduced H. B. No. 22, in accordance with previous notice, "An Act to authorize L. H. Warren, H. Gassett and James St. Clair to establish a ferry across Clark's fork of Yellowstone river."

Read first and second time, and referred to Committee on Incorporations.

Mr. McCullough introduced H. B. No. 23, "An Act to authorize L. H. Warren, H. Gassett and James St. Clair to establish a ferry across the Big Horn river."

Read first and second time, and referred to Committee on Roads and Bridges.

Mr. McMurtry introduced H. B. No. 24, "An Act to authorize John Swartz, John Noys and R. C. Clark, their heirs and assigns, to construct and maintain a water ditch from Deer Lodge or Silver Bow Creek to Butte or Rocker City, in Deer Lodge county."

Read first and second time, and referred to Committee on Mines and Minerals.

Mr. Wylie introduced the following resolution :

*Resolved*, By the House of Representatives, that all bills of a private character hereafter introduced, shall lay upon the table for ten days from this date, Nov. 15, 1866.

Mr. Esler moved that the resolution be laid on the table ; upon which the ayes and nays were demanded.

Roll called.

Those voting in the affirmative were—Messrs. Andrews, Blakeley, Buck, Esler, Gallaher, Gorham, McMurtry, Smith, Van Hagan, and Mr. Speaker—10.

Those voting nay were—Messrs. Johnson, Jordan, McCullough, McMannus, Rhodes, Roach, Rogers, and Wylie—9.

And the resolution was laid on the table.

Mr. Wylie moved a call of the House.

Roll called—Messrs. Clanton, Donegan, and Mayhew absent.

Sergeant-at-Arms ordered to bring in the absent members.

Mr. Mimms moved a suspension of the call. Lost.

Mr. McCullough moved the call be suspended. Carried.

Mr. McCullough moved the resolution be taken from the table.

Ayes and nays demanded.

Roll called—ayes, 10 ; nays, 8.

Those voting in the affirmative were—Messrs. Gallaher, Johnson, Jordan, McCullough, McMannus, Mimms, Rhodes, Roach, Rogers, and Wylie—10.

Those voting in the negative were—Messrs. Andrews, Blakely, Buck, Esler, Gorham, McMurtry, Smith, and Van Hagan—8.

And the resolution was taken from the table.

The following message was received from the Council :

COUNCIL CHAMBER,  
VIRGINIA CITY, M. T., Nov. 14, 1866. }

*To the Hon. Speaker of the House of Representatives :*

SIR—I am directed by the Council to inform your honorable body that notice has been given of the introduction of the following bills :

By Mr. Orr—Of a bill entitled “An Act in relation to pay of jurors in the courts of this Territory.”

By Mr. Wilkinson—Of a bill “To authorize the county commissioners of Edgerton county to purchase or erect a poor house or hospital, and for other purposes.”

By Mr. Moore—Of a bill “To change the county line between Gallatin and Meagher counties, and to establish a line between Meagher and Jefferson counties.”

By Mr. Galloway—Of a bill entitled “An Act in relation to territorial library.”

Mr. Moore, by consent, introduced C. B. No. 19, being “A Bill to authorize George Roff and John A. Creighton to establish and maintain a road and bridge in Beaver Head county.”

Also, that the Council have concurred in House Joint Resolution No. 1, which is herewith returned.

C. B. No. 6, being “An Act entitled an act concerning land-



lords and tenants," has passed the Council, and the title agreed to, which bill is herewith presented.

C. B. No. 8 was lost, and did not pass the Council.

Very respectfully,

WM. Y. LOVELL,  
*Chief Clerk.*

Mr. McCullough moved to adjourn to 2 o'clock, P. M. Lost.

The vote was then taken on the adoption of the resolution.

Roll called—ayes, 9; nays, 9.

Those voting in the affirmative were—Messrs. Jordan, McCullough, McMannus, Mimms, Rhodes, Roach, Rogers, Wylie, and Mr. Speaker—9.

Those voting in the negative were—Messrs. Andrews, Blakely, Buck, Esler, Gorham, Johnson, McMurtry, Smith, and Van Hagan—9.

And the resolution was lost.

H. B. No. 18 was then taken up, "An Act to amend an act to incorporate the Bannaek Ditch and Mining Company."

The bill was then read for information.

Mr. Rogers offered the following amendment:

Amend, by inserting in section 1, line 6, between the words "ditches" and "the," and in 8th line, same section, strike out the words "so much of."

Adopted.

The bill was then adopted as amended.

On motion of Mr. Mimms, the bill was considered engrossed.

Read third time, and placed upon its final passage.

Roll called—ayes, 12; nays, 8.

Those voting in the affirmative were—Messrs. Andrews, Blakeley, Buck, Donegan, Esler, Gallaher, Johnson, McMurtry, Rogers, Smith, Van Hagan, and Wylie—12.

Those voting in the negative were—Messrs. Gorham, Jordan, McCullough, McMannus, Mimms, Rhodes, Roach, and Mr. Speaker—8.

The title was agreed to.

Mr. Johnson moved to adjourn. Carried.

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#### AFTERNOON SESSION.

House met at the usual hour.

Roll called—Quorum present.

The Clerk was instructed to present to Mr. A. Leech, chairman of the Committee to settle with the late Auditor and Treasurer, a copy of House Joint Resolution No. 1.

C. B. No. 6 was taken up, "An Act concerning landlords and tenants."

Read first and second time, and referred to the Committee on Judiciary.

H. B. No. 12 was reported correctly engrossed by Mr. Smith, chairman of the Committee on Engrossment.

The bill was then taken up, "An Act to authorize Constant Guyot, his heirs and assigns, to construct and maintain a toll road from the Little Blackfoot river to Helena."

Read the third time, and put on its final passage.

Roll called—ayes, 16 ; nays, 4.

Those voting in the affirmative were—Messrs. Andrews, Blakeley, Buck, Clanton, Donegan, Esler, Gallaher, Johnson, Jordan, McMurtry, Mimms, Roach, Rogers, Smith, Van Hagan, and Mr. Speaker—16.

Those voting in the negative were—Messrs. Gorham, McCullough, McMannus, and Rhodes—4.

And the bill was passed.

On motion of Mr. Johnson, the title of the bill was amended so as to read as follows: "An Act to authorize Constant Guyot, his heirs and assigns, to maintain a toll road to the Ten Mile and Helena road."

Mr. McMurtry reported from the Judiciary Committee on C. B. No. 12:

MR. SPEAKER—Your Committee, to whom was referred Council Bill No. 12, beg leave to report on same, and recommend its passage, with the following amendments:

In section 2, insert the word "knowingly" after the word "shall," in the first line of the section.

Strike section 5 from the bill.

In section 8, strike out, in the ninth and tenth lines from the bottom of the section, the words "or any other person."

L. McMURTRY, *Chairman*.

Mr. McCullough moved that the House resolve itself into Committee of the Whole to consider C. B. No. 12. Carried.

Mr. McCullough in the chair.

House resumed.

Mr. McCullough, chairman of the Committee of the Whole, reported as follows:

MR. SPEAKER—The Committee of the Whole House having had under consideration C. B. No. 12, report the same back to the House, with the recommendation that the same be passed, after being amended, as follows:

In section 2, line 1, insert "knowing" after "shall."

In section 2, insert "him or her," and throughout the bill wherever the sense requires.

Strike out section 5.

In section 8, strike out the words "any other person," in lines 8 and 9 from the bottom.

J. L. McCULLOUGH, *Chairman*.

Report was received and adopted, and the bill was then adopted as amended.

And, on motion of Mr. McCullough, the bill was read a third time by its title, and passed by the following vote :

Roll called—ayes, 21 ; nays, none.

Those voting in the affirmative were—Messrs. Andrews, Blake-ly, Buck, Clanton, Donegan, Esler, Gallaher, Gorham, Johnson, Jordan, McCullough, McMannus, McMurtry, Mimms, Rhodes, Roach, Rogers, Smith, Van Hagan, Wylie, and Mr. Speaker—21.

*Nays*—None.

The title of the bill was agreed to.

On motion of Mr. Smith, the House adjourned.

A. E. MAYHEW,  
*Speaker.*

A. H. BARRET,  
*Chief Clerk.*

## TWELFTH DAY.

NOVEMBER 16, 1866.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—Quorum present.

Minutes of yesterday read and approved.

Mr. McCullough, chairman of the Committee on Incorporations, reported as follows :

MR. SPEAKER—Your Committee on Incorporations have examined House Bill No. 17, and beg leave to report the same back to the House, with the recommendation that the House favorably consider the same.

Report received.

Mr. McCullough, also, reported as follows :

MR. SPEAKER—Your Committee on Incorporations have carefully examined H. B. No. 16, and respectfully beg leave to report the same back to the House, with a recommendation that the same be passed after a slight reduction of tolls.

Report received.

Mr. McMurtry, from the Committee on Judiciary, reported as follows, on H. B. No. 19, "An Act to amend an act concerning limitations: "

MR. SPEAKER—Your Committee on Judiciary, to whom was referred H. B. No. 19, beg leave to report on same, and recommend its passage with the following amendments :

Strike out all but the enacting clause, and insert the following :

"SEC. 1. Section 9 of the act entitled an act concerning limitations, be, and is hereby, amended, so as to read 'twelve months' instead of 'three months.'

"SEC. 2. This act to take effect, and be in force from and after its passage."

Report received.

Mr. McCullough, from the Committee on Incorporations, made the following report on H. B. No. 14, "An Act to authorize H. Clay Graves, Thomas Burden and their associates, to construct and maintain a toll road :"

MR. SPEAKER—Your Committee on Incorporations, to whom was referred H. B. No. 14, have examined the same, and beg leave to submit the following report :

We would respectfully recommend the passage of the bill, first being amended as follows :

In the title, strike out the word "toll" and insert the word "wagon."

In section 2, strike out all of line 8.

In section 2, line 6, strike out "\$2.00" and insert "\$1.50."

In section 4, line 6, strike out the word "two" and insert "one."

In section 4, line 13, strike out the words "to construct," and insert the words "under this franchise."

Insert as section 7, the following :

"This act may be modified, amended or repealed at any subsequent session of the Legislature."

Change section 7 to section 8.

Report received.

Mr. Andrews presented the following report of the Committee on Roads and Bridges, on H. B. No. 23, "An Act to authorize L. H. Warren, H. Gassett and James St. Clair to construct and maintain a ferry across Big Horn river :"



MR. SPEAKER—Your Committee on Roads and Bridges beg leave to report back H. B. No. 23, and recommend its reference to the Committee on Incorporations.

Report received, and the bill recommitted to Committee on Roads and Bridges for further report.

Mr. Gallaher, chairman of the Committee on Public Lands, reported as follows, on H. B. No. 11, "An Act for maintaining and defending possessory rights upon the public domain of Montana Territory :"

MR. SPEAKER—Your Committee on Public Lands, to whom was referred House Bill No. 11, have had the same under consideration, and ask to report the same back to the House, and recommend that it be referred to the Committee of the Whole for their consideration.

Mr. Rhodes, chairman of Committee on Mines and Minerals, reported as follows, on H. B. No. 24, "An Act to authorize John Swartz, John Noys and R. C. Clark, their heirs and assigns, to construct and maintain a water ditch from Deer Lodge or Silver Bow Creek to Butte and Rucker cities, in Deer Lodge county :"

MR. SPEAKER—Your Committee on Mines and Minerals, to whom was referred H. B. No. 24, report the same back, and recommend that it do pass.

Report received.

Mr. Mimms gave notice that he would, on to-morrow or some subsequent day, introduce "A Bill for an act to incorporate the Helena City Wagon Road Company."

Mr. Wylie—That he would introduce "An Act defining the duties of county treasurers, and the payment of county warrants."

Mr. McMurtry—Of "A Bill entitled an act to amend an act concerning joint rights and obligations."

Mr. Donegan introduced the following resolution :

Whereas, there is a difference in opinion between the Judiciary

of this Territory and the Representatives of the People, as to the legality of the Second and Third Legislative Assemblies of the Territory of Montana—

And, whereas, as we believe, public policy requires, and the interests of the people demand, that the laws passed by this and the preceding legislature should be held and declared to be the laws of this Territory beyond all question ; therefore,

*Be it Resolved*, By the House of Representatives, the Council concurring therein, that a Committee of three from the House and two from the Council, be appointed to draft a memorial to Congress to pass an act declaring in force, as the laws of this Territory, all laws passed at the Second and Third Sessions of the Legislative Assembly of Montana Territory.

Mr. Van Hagan moved the indefinite postponement of the resolution.

Upon which the yeas and nays were demanded.

Roll called.

Those voting in the affirmative, were—Messrs. Andrews, Blakely, Buck, Clanton, Donegan, Esler, Gallaher, Gorham, Johnson, Jordan, McCullough, McMannus, McMurtry, Mimms, Rhodes, Roach, Rogers, Smith, Van Hagan, Wylie, and Mr. Speaker—21.

*Nays*—None.

Mr. McCullough moved to reconsider the vote by which C. B. No. 12 was passed. Carried.

The bill was then so amended as to make section 6 section 5, and so on through the bill.

Mr. Buck moved that the rule be suspended, and C. B. No. 12 be read third time by its title, and put upon its final passage. Carried.

C. B. No. 12, "An Act prohibiting certain games," was then read a third time by its title, and passed by the following vote :

Roll called.

Those voting in the affirmative, were—Messrs. Andrews, Blakely, Buck, Clanton, Donegan, Esler, Gallaher, Gorham, Johnson, Jordan, McCullough, McMurtry, Mimms, Rhodes, Roach, Wylie, and Mr. Speaker—17.

*Nays*—None.

The title was agreed to.

Mr. McCullough, chairman of Committee on Incorporations, made the following report upon C. B. No. 10, "An Act to authorize John Wilson and R. E. Eddy, their heirs and assigns, to establish and maintain a ferry across the Missoula river."

And H. B. No. 13, "An Act to authorize E. W. Park to erect a bridge or maintain a ferry across the Bitter Root river."

MR. SPEAKER—Your Committee on Incorporations, to whom was referred House Bill No. 13, and Council Bill No. 10, have had said bills under consideration, and find that said bills are both asking for the same franchise; therefore, your Committee return the bills with the recommendation that a Select Committee be appointed to investigate the respective merits of said bills, and report at as early a day as possible.

Report received.

Mr. Johnson moved to refer the bills to a Select Committee. Carried.

The Speaker appointed as such Committee, Messrs. Van Hagan, Buck and Jordan.

H. B. No. 24, "An Act to authorize John Swartz, John Noys and R. C. Clark to construct and maintain a water ditch from Deer Lodge or Silver Bow Creek to Butte and Rocker cities in Deer Lodge county," was—

On motion of Mr. Mimms, referred to the Committee of the Whole House, to be taken up at 2½ o'clock, P. M.

The report on H. B. No. 16 was adopted, "An Act to authorize Charles Francisco and David P. Abbott to construct a ferry across Sun river."

The bill and report was referred to the Committee of the Whole House, to be taken up in its regular order.

The report on H. B. No. 11, "An Act for maintaining and defending possessory rights on the public domain in Montana Territory," was adopted, and the bill with the report referred to the Committee of the Whole, to be considered in its regular order.

The report on H. B. No. 17, "An Act to invest religious, charitable, educational and other societies with certain powers of bodies corporate," was adopted, and the bill with the report was referred to the Committee of the Whole, to be considered in its regular order.

The report on H. B. No. 19, "An Act to amend an act concerning limitations," was adopted, and the bill with the report recommitted to the Committee on Judiciary.

The report on H. B. No. 23 was taken up, "An Act to authorize L. H. Warren, H. Gassett and James Sinclair to establish a ferry across the Big Horn river," was adopted, and, on motion of Mr. Smith, was recommitted to the Committee on Roads and Bridges.

H. B. No. 14, "An Act to authorize H. Clay Graves, Thomas Burden, their heirs and assigns, to establish a toll road," was referred to the Committee of the Whole, to be taken up in its regular order.

Mr. Smith moved that the printing of the journal, as now furnished, be dispensed with.

Mr. McCullough moved that a Committee of three be appointed to wait upon the Public Printer and see if he will print the journal in full. Carried.

Mr. Speaker appointed as such Committee, Messrs. McCullough, Smith and Rogers.

The following message was received from the Council :

COUNCIL CHAMBER, }  
VIRGINIA CITY, M<sup>r</sup> T., Nov. 14, 1866. }

*To the Hon. Speaker of the House of Representatives :*

SIR—I am directed by the Council to inform your honorable body that H. B. No. 8 was read first and second time, and referred to Committee on Towns and Counties.

Said Committee reported as follows :

That they have had H. B. No. 8, entitled "An Act to change the name of Muscleshell county and county seat," under consideration, and would ask to report said bill back to the Council, recommending it be indefinitely postponed.

Report received, and adopted by the Council.

Mr. Chiles gave notice of "A Bill for an act requiring criminals to perform labor."

Mr. Waterbury introduced C. B. No. 24, "A Bill for an act to authorize J. A. Johnson and C. F. McCarty, their heirs, assigns and associates, to establish a bridge and ferry across the Hell Gate river."

Mr. Phelps, by consent, introduced C. B. No 21, being "A Bill to amend an act defining the Council and Representative districts of Montana, and apportioning the members of the Legislative Assembly thereof."

Mr. Wilkinson introduced C. B. No. 22, being "An Act to authorize the county commissioners of Edgerton county to erect or purchase a hospital."

Mr. Orr introduced C. B. No. 20, entitled "An Act in relation to pay of jurors in the courts of this Territory."

Mr. Phelps introduced C. B. No. 23, being "A Bill to incorporate the Beaver Head County Gold and Silver Mining and Manufacturing Company."

Very respectfully,

Your ob't serv't,

WM. Y. LOVELL, *Chief Clerk.*

On motion of Mr. McMannus, the House adjourned.

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#### AFTERNOON SESSION.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—Quorum present.

Mr. Rogers moved to adjourn. Lost.

Mr. Van Hagan made the following report on H. B. No. 23, "An Act to authorize L. H. Warren, H. Gassett and James Sinclair to establish a ferry across the Big Horn river."

✓ The majority of the Committee on Roads and Bridges, beg leave to make the following report :

We find that two bills have been introduced, one of which has been referred to the Committee on Incorporations, and the other to the Committee on Roads and Bridges, and are informed that the two bills come in conflict with prior rights granted by the Bannack Legislature, therefore we recommend that Bill No. 23 be referred to the Committee on Incorporations.

Report received, and adopted, and the bill referred to the Committee on Incorporations.



Mr. Gorham, chairman of the Committee on Finance, made the following report on H. B. No. 21, "An Act to amend an act entitled an act in relation to trout fishing :"

MR. SPEAKER—Your Committee on Finance, to whom was referred H. B. No. 21, having had the same under consideration, beg leave to report the same back, and recommend it do not pass for the following reason :

"If you take from the Indian *one shad*, *he will ask for three in return.*"

Mr. Smith moved to recommit to the Committee on Finance. Lost.

A call of the House was ordered.

Mr. Smith moved the call be dispensed with. Carried.

Mr. Wylie moved that the report be adopted. Carried.

Mr. Mimms moved to refer the bill to the Committee on Judiciary. Lost.

Mr. Johnson moved to refer to the Committee of the Whole House. Lost.

Mr. Smith moved to refer the bill to the Committee on Education.

Mr. Rogers moved that the motion of Mr. Smith, and the bill with the report of the Finance Committee be indefinitely postponed.

Which motion was carried.

Mr. McCullough made the following report from the Special Committee on Printing :

MR. SPEAKER—We, the Special Committee appointed to wait upon the Public Printer, have performed that duty, and respectfully report to the House, that we are informed by the

printer that he is prepared to do any amount of printing the House may desire, provided the same be furnished him each evening.

Report received, and the Committee discharged.

On motion of Mr. Smith, the House adjourned.

A. E. MAYHEW,

*Speaker.*

A. H. BARRET,

*Chief Clerk.*

## THIRTEENTH DAY.

NOVEMBER 17, 1866.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—Quorum present.

Minutes of yesterday read and approved.

Mr. Mimms gave notice that he would, on Monday or some future day, introduce "A Bill for an act for the better observance of the Lord's day."

Mr. McMurtry gave notice that he would, on to-morrow or some subsequent day, introduce "A Bill authorizing Paul B. Anthony to construct and maintain a wagon road from Blackfoot City, in Deer Lodge county, to Helena City, in Edgerton county."

Mr. Johnson, on leave, introduced House Joint Memorial No. 1, "Asking for appropriations for surveys and the establishment of a surveyor general's office, and also for a land office."

Read first and second time, and, on motion of Mr. Mimms, the rule was suspended, the memorial read the third time by its title, and put upon its final passage.

Roll called.

Those voting in the affirmative, were — Messrs. Andrews, Blakely, Clanton, Esler, Gallaher, Gorham, Johnson, Jordan, McMannus, McMurtry, Mimms, Rhodes, Roach, Smith, Van Hagan, Wylie, and Mr. Speaker—17.

Mr. Donegan voted in the negative.

The title was then agreed to.

Mr. Mimms, pursuant to previous notice, introduced H. B. No. 25, "An Act to incorporate the Helena City Water Company."

Read first and second time, and, on motion, was referred to a Select Committee of three—Messrs. Mimms, Van Hagan, and McMurtry.

Mr. Esler was granted leave of absence for four days.

Mr. McMurtry moved that H. B. No. 24, "An Act to authorize John Swartz, John Noys, and R. C. Clark, their heirs and assigns, to construct and maintain a water ditch from Deer Lodge, or Silver Bow Creek, to Butte and Rucker Cities, in Deer Lodge county," be taken from the Committee of the Whole, and acted upon by the House. Carried.

The bill was then read for information.

The bill was then read the third time, and put upon its final passage.

Roll called.

Those voting in the affirmative were: Messrs. Andrews, Blakeley, Clanton, Donegan, Esler, Gallaher, Gorham, Johnson, Jordan, McMannus, McMurtry, Mimms, Rhodes, Roach, Smith, Van Hagan, Wylie, and Mr. Speaker—18.

Mr. Rogers voted in the negative.

And the bill passed.

Title agreed to.

Mr. Esler gave notice of the introduction of the following bills, on to-morrow or some future day:

"An Act entitled an act to incorporate the Legal Tender Tunneling Company."

Also, "An Act to incorporate the Paradise Town Company."

Mr. Donegan gave notice that he would, on to-morrow or some

future day, introduce "An Act defining misdemeanors in this Territory."

The following message was received from the Council, by its Chief Clerk, Mr. Lovell:

The following action has been had in the Council:

Mr. Galloway introduced C. B. No. 25, "An Act entitled an act in relation to the territorial library."

By Mr. Waterbury—C. B. No. 26, "An Act to amend an act entitled an act to incorporate the Missouri River and Rocky Mountain Wagon Road and Telegraph Company."

By Mr. Spratt, C. B. No. 27, "An Act to amend an act respecting executors and administrators."

By Mr. Chiles—C. B. No. 28, "An Act requiring criminals to perform labor."

Mr. Spratt gave notice of "A Bill amendatory of the attachment law."

The concurrent resolution of the House, asking the appointment of a joint committee, to memorialize Congress in regard to the quartz law, was not concurred in by the Council.

The concurrent resolution of the House, in regard to the Bannack and Snake Indians, was not concurred in by the Council.

The concurrent resolution of the House, in regard to the appointment of a committee, to confer with the code commissioners, was concurred in by the Council, and Mr. Bagg was appointed on the part of the Council.

H. B. No. 8, "An Act changing the name of Muscleshell county and county seat," was read the third time, and passed.

On motion of Mr. Johnson, the House resolved itself into a Committee of the Whole House, to consider such bills as are referred to the Committee of the Whole House.

Mr. Mimms in the chair.

House resumed.

Mr. Speaker in the chair.

On motion of Mr. Smith, the House adjourned to 10 o'clock,  
Monday morning.

A. E. MAYHEW,  
*Speaker.*

A. H. BARRET,  
*Chief Clerk* [ ]



## FIFTEENTH DAY.

NOVEMBER 19, 1866.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—Mr. Smith absent.

Minutes of Saturday read and approved.

Mr. McCullough, chairman of Committee on Incorporations, reported as follows on H. B. No. 15, "An Act to incorporate the Missouri River Boom and Lumber Company: "

MR. SPEAKER—Your Committee on Incorporations, to whom was referred H. B. No. 15, have had the same under consideration, and beg leave to submit the following report :

We return the bill, and recommend its passage, after adopting the following amendments :

After section 5, add section 6, as follows :

"SEC. 6. That any subsequent Legislature shall have the power to amend, modify, or repeal this bill."

And add section 7 as follows :

"SEC. 7. That this act shall be in force and effect from and after its passage."

Mr. Mimms, chairman of the Select Committee, to whom was referred H. B. No. 25, "An Act to incorporate the Helena City Water Company," reported as follows :

MR. SPEAKER—Your Select Committee, to whom was referred H. B. No. 25, "An Act entitled an act to incorporate the Helena City Water Company," have had the same under consideration.

Your Committee, therefore, ask leave to report the bill back to the House, with the following statement of facts relating thereto:

That said Water Company have had an existence for eighteen months, and have been furnishing said Helena City with water for about the same space of time. That the water so introduced into Helena City has been an incalculable blessing to the inhabitants. That it is the sole dependence of the people for water. That said company find that the present capacity of their pipes is not sufficient to conduct a full supply of water. That, in consequence of such fact, the company asks the Legislature for certain rights, etc., that the company may be more substantially secured in their property. That the expenditures of said company to date have been about eight thousand dollars. That it will cost the company as much more to bring the upper springs mentioned in said act, and conduct the water therefrom to all parts of the city. That the rates asked for are such as the people have been cheerfully paying during the year without fault. That it is important that the said Helena City should be well and amply supplied with water. That said company are amply able to meet the exigencies of the case. That the passage of the bill will not, in so far as your Committee can ascertain, interfere with any vested rights.

Therefore, your Committee respectfully recommend that the bill do pass.

All of which is respectfully submitted.

Mr. Mimms, chairman of the Committee of the Whole, reported as follows:

MR. SPEAKER—The Committee of the Whole House, to whom was referred H. B. Nos. 11, 16, and 17, have had the same under consideration, and have instructed their chairman to report progress, and ask leave to sit again.

Mr. McCullough gave notice, that he would, on to-morrow or some future day, introduce a bill for "An Act authorizing Samuel Bressler, Robert Hedges, and their associates, heirs and assigns, to construct and maintain a toll road from Virginia City, M. T., to Sterling City, in the Hot Spring district."

Also, "A Bill for an act in relation to immigrants, freighters, teamsters and others."

By Mr. Johnson—"A Bill entitled an act defining the western boundary of Montana Territory, on the Clark's Fork of the Columbia river."

By Mr. Gorham—"An Act to authorize C. L. Craig, Thomas H. Irvine and associates to establish and maintain a water ditch for mining purposes, from Brown's Gulch to Silver Bow Gulch."

Mr. Donegan, pursuant to previous notice, introduced H. B. No. 26, "An Act defining certain misdemeanors in this Territory."

Read first and second time, and referred to the Committee on Judiciary.

Mr. McCullough introduced the following resolution :

*Resolved*, That a Select Committee of three be appointed to confer with the Committee of two from the Council, with reference to the adoption of a practice act.

On motion of Mr. Buck, the resolution was adopted.

The Speaker appointed Messrs. McCullough, McMurtry, and Johnson.

On motion of Mr. Johnson, H. B. No. 15, "An Act to incorporate the Missouri River Boom and Lumber Company," was made the special order for 2½ o'clock, to be considered in Committee of the Whole.

The following communication was received from the Council, by its Chief Clerk, Mr. Lovell :

Notice has been given for the introduction of the following bills :

By Mr. Lowry—"An Act to authorize Owen Gillmore and M. P. Lowry to construct and maintain a ferry or bridge across Sun river."

By Mr. Brown—"An Act defining who shall be incompetent to testify in civil causes, in the several courts of this Territory."

By Mr. Chiles—"An Act supplementary to an act in relation to notaries public."

On motion of Mr. McCullough, the House resolved itself into Committee of the Whole, to consider H. B. Nos. 14 and 16—

H. B. No. 14, "An Act to authorize H. Clay Graves, Thomas Burden and their associates to construct and maintain a toll road."

H. B. No. 16, "An Act to authorize Charles Francisco and David P. Abbott to construct and maintain a ferry across Sun river."

House resumed.

Speaker Mayhew in the chair.

On motion of Mr. McMannus, the House adjourned to 2 o'clock, P. M.

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#### AFTERNOON SESSION.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—Quorum present.

Mr. Johnson moved that the House go into Committee of the Whole, to consider such bills as had been referred to said Committee. Carried.

Mr. Mimms in the chair.

House resumed. Mr. Speaker in the chair.

On motion of Mr. Buck, the further reading of the Auditor's and Treasurer's report was dispensed with.

On motion of Mr. McCullough, 250 copies of the Territorial Auditor's and Treasurer's report was ordered to be printed.

Mr. Mimms, chairman of the Committee of the Whole, reported as follows :

MR. SPEAKER—The Committee of the Whole House, to whom was referred House Bills Nos. 11, 14, 15, 16 and 17, have had the same under consideration, and have instructed their chairman to make the following report to the House :

That H. B. No. 17 be reported back to the House with the following amendments :

Insert, in line 13, after the word "amount," the words "of real estate," and strike out the words "of real estate," in line 14, same section ; and recommend that the bill pass as amended.

That House Bill No. 11 be reported back to the House, with the recommendation that the bill be indefinitely postponed.

That H. B. No. 16 be reported back to the House, with the following amendments :

Amend section 3, end of line 7, strike out "\$4.00," and insert "\$3.00."

Same section, line 8, strike out "\$1.25," and insert "50."

Same section, strike out all of lines 9, 10 and 11.

Same section, line 12, strike out "125," and insert "75."

Same section, line 13, strike out "100," and insert "75." Strike out all of lines 14 and 15, and insert, in lieu thereof, "loose stock, cattle and horses, 25." Strike out all of line 16, and insert, in lieu thereof, "sheep and swine, 10."

Amend same section, line 17, by inserting between the words "commissioners" and "in," the words "of the county;" and recommend that the bill pass as amended.

That H. B. No. 15 be reported back to the House, with the recommendation that the bill be referred to a Select Committee.

That H. B. No. 14 be reported back to the House, and recommend that the bill do pass, with the amendments, as reported by the Committee on Incorporations.

All of which is respectfully submitted.

Mr. Clanton moved that the report of the Committee of the Whole upon H. B. No. 15, "An Act to incorporate the Missouri River Boom and Lumber Company," be adopted, and the bill be referred to a Select Committee. Carried.

Messrs. Van Hagan, Donegan and Rogers were appointed as such Committee.

The report of the chairman of the Committee of the Whole upon H. B. No. 11, "An Act for defending and maintaining possessory rights upon the public domain," was not adopted.

On the motion to indefinitely postpone H. B. No. 11, the ayes and nays were demanded.

A call of the House was ordered.

Roll called—Messrs. Clanton, Gorham and Smith, absent.

The Sergeant-at-Arms was sent for absentees.

Mr. Roach moved that further proceedings under the call be dispensed with. Lost.

Mr. McCullough moved that further proceedings under the call be dispensed with. Lost.

Mr. Clanton in his seat.

Mr. Rogers moved that further proceedings under the call be dispensed with. Carried.

Roll called.

*Ayes*—Messrs. Andrews, Blakely, Gallaher, Johnson, McCullough, McMurtry, Rhodes, Rogers, and Wylie—9.

*Nays*—Messrs. Buck, Clanton, Donegan, Esler, Jordan, McManus, Mimms, Roach, Van Hagan, and Mr. Speaker—10.

And the motion was lost.

H. B. No. 11 was then referred to the Committee on Judiciary.

The report of the chairman of the Committee of the Whole upon H. B. No. 16, "An Act to authorize Charles Francisco and



David P. Abbott to construct and maintain a ferry across Sun river," was then adopted.

Mr. Johnson moved to amend the amendments as adopted by the Committee of the Whole, as follows, to wit:

Section 5, line 3, strike out "the," and insert "Edgerton" in lieu thereof.

Also, amend section 3 by inserting the words "of Edgerton county," at the end of said section.

Also, in line 1 insert the words "of Edgerton county," after the words "county commissioners" in line 1, and strike out all of line two, and the word "in," in line 1.

Adopted.

Mr. McCullough moved to adopt the bill as amended. Carried.

The bill was then ordered engrossed for third reading.

H. B. No. 14, "An Act to authorize H. Clay Graves, Thomas Burden, and their associates, to construct and maintain a toll road."

The report of the Committee of the Whole was adopted, with the amendments, and the bill as amended adopted, and ordered engrossed for the third reading.

H. B. No. 17, "An Act to invest religious, charitable, educational, and other societies, with certain powers of bodies corporate."

The report of the Committee of the Whole, with the amendments to H. B. No. 17, was adopted, and the bill as amended adopted, and ordered engrossed for third reading.

Mr. Donegan, chairman of Committee on Enrollment, reported H. B. No. 8, "An Act to change the name of Muscleshell county and county seat," as enrolled.

The following message was received from the Council, by its Chief Clerk, Mr. Lovell:

That the Council have concurred in the amendments of the

House to Council Bill No. 12, and that the bill, as amended, has passed the Council by a vote of—ayes, 12; nays, 1.

On motion of Mr. Roach, the House adjourned to 10 o'clock to-morrow.

A. E. MAYHEW,  
*Speaker.*

WM. Y. LOVELL,  
*Chief Clerk.*

## SIXTEENTH DAY.

NOVEMBER 20, 1866.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—Members all present.

Mr. McMurtry, chairman of the Committee on the Judiciary, made the following report on H. B. No. 26, "An Act defining certain misdemeanors in this Territory":

MR. SPEAKER—Your Committee on Judiciary, to whom was referred H. B. No. 26, beg leave to report the same and recommend that it do not pass.

The following message was received from the Council, by its Chief Clerk, Mr. Lovell:

That Council Bill No. 24 has passed the Council, and the engrossed copy of the same is herewith presented.

Mr. Van Hagan made the following majority report from the Select Committee:

MR. SPEAKER—We, a majority of the Select Committee, to whom was referred Council Bill No. 10 and House Bill No. 13, report the following state of facts to exist:

We find that a charter was granted to one Brown, by the legislature of Washington Territory, and that the said Brown has abandoned said premises. Also, that one Parks has been running and operating a ferry at the point specified in each of said bills, and your Committee are unable to find that the said Parks had any authority of law for so doing. Also, that the last legislature of

Montana Territory granted a charter to parties for a ferry at the point designated in said bills, but, on account of the insufficiency of the charter, the said parties did not deem it prudent to take possession of the said premises. Also, find that the privileges now asked for in Council Bill No. 10 are for the same parties to whom said franchise was granted by the last legislature of Montana.

We would, therefore, recommend said bills to the careful consideration of the House.

J. B. VAN HAGAN, *Chairman.*

I. N. BUCK.

Mr. Jordan made the following minority report from Select Committee:

MR. SPEAKER—Your Special Committee on C. B. No. 10 and H. B. No. 13, having had the same under consideration, find the following facts existing in relation thereto:

That the party desiring a franchise (as set forth in H. B. No. 13), has now, and has had for some time, possession of a ferry boat at the place designated in said H. B. No. 13 and C. B. No. 10. And that the party desiring a franchise, as set forth in C. B. No. 10, has never possessed or perfected any legal right thereto, notwithstanding they obtained a franchise to establish a ferry boat at the point indicated in said H. B. No. 13 and C. B. No. 10, of the second legislature of this Territory, conditioned that the said party, as represented in C. B. No. 10, establish a ferry boat at said point within five months from the date thereof, in which they failed so to do.

H. JORDAN.

Notice for the introduction of the following bills was given:

By Mr. Andrews—"An Act to authorize — Kenly and W. H. Todd to construct and maintain a water ditch from Monmouth Gulch to Red Mountain City and vicinity, in Deer Lodge county."

By Mr. Donegan—"An Act to authorize James McEveley, John Moore, and their associates, to construct and maintain a wagon road from Bannack City to Lemhi, on the north side of Horse Prairie, and across the Rocky Mountain range."

The following message was received from the Council, by its Chief Clerk, Mr. Lovell:

That the Council have passed H. B. No. 12, and the same is herewith returned.

Mr. Johnson, in pursuance of previous notice, introduced H. B. No. 27, "An Act defining the western boundary of Montana Territory, on the Clark's fork of the Columbia river."

Read first and second time, and referred to the Committee on the Judiciary.

Mr. McCullough, in pursuance of previous notice, introduced H. B. No. 28, "An Act authorizing Samuel Bressler, Robert Hedges, and their associates, to construct and maintain a toll road from Virginia City to Sterling City, in Hot Springs district."

Read first and second time, and referred to Committee on Incorporations.

Mr. Buck, pursuant to notice, introduced H. B. No. 29, "An Act to provide for the payment of costs by counties attached to others for judicial purposes, and in cases transferred from one county to another for trial in Montana Territory."

Read first and second time, and referred to the Committee on Judiciary.

Mr. Wylie introduced H. J. M. No. 2, "Joint Memorial to the Senate and House of Representatives of the United States in Congress assembled."

Read first and second time, and referred to the Committee on Judiciary.

Mr. Johnson introduced the following resolution, which was adopted:

*Resolved*, By the House of Representatives, that the Secretary of the Territory be requested to furnish the House with sufficient light in the daytime.

C. B. No. 24, "A Bill for an act to authorize J. A. Johnson, C. F. McCarty, their heirs and associates, "to establish a bridge or ferry across the Hell Gate river."

Read first and second time, and referred to the Committee on Incorporations.

The following message was received from the Council, by its Chief Clerk, Mr. Lovell :

SIR—I am directed by the Council to inform your honorable body that the Council have passed H. B. No. 18.

The report of the Select Committee on H. B. No. 25, "An Act to incorporate the Helena City Water Company," was adopted, and the Committee discharged.

The bill was considered engrossed, and, on motion of Mr. Mayhew, was read third time by its title, and put upon its final passage, and the bill was then passed by the following vote :

Roll called.

Those voting in the affirmative, were—Messrs. Andrews, Blakely, Buck, Clanton, Esler, Gallaher, Gorham, Johnson, Jordan, McCullough, McMannus, McMurtry, Mimms, Rhodes, Roach, Rogers, Smith, Van Hagan, Wylie, and Mr. Speaker—20.

Nays—None.

Mr. Donegan absent.

On motion of Mr. Johnson, Council Bill No. 10 and House Bill No. 13, were referred to the Committee of the Whole, and made the special order for 2½ o'clock this P. M.

The report of the Committee upon H. B. No. 26, "An Act defining certain misdemeanors in this Territory," was adopted.

And, upon motion of Mr. Mayhew, the rules were suspended, and the bill read the third time, by its title, and lost by the following vote :

Aye—Mr. McMannus.

Nays—Messrs. Andrews, Blakely, Buck, Clanton, Esler, Galla-



her, Gorham, Johnson, Jordan, McCullough, McMurtry, Mimms, Rhodes, Roach, Rogers, Smith, Van Hagan, and Wylie—18.

Mr. McCullough, from a Select Committee, reported as follows :

MR. SPEAKER—Your Select Committee appointed to confer with a like committee from the Council in relation to the adoption of a practice act for this Territory, beg leave to report that such conference has been had, and the committees respectfully recommend the adoption of the California Act.

Report adopted, and the Committee discharged.

The House then adjourned to 2 o'clock, P. M.

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#### AFTERNOON SESSION.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—Mr. Esler absent.

Mr. McCullough, chairman of the Committee on Incorporations, reported as follows on C. B. No. 24, "A Bill for an act to authorize J. A. Johnson, C. F. McCarty, their heirs, assigns and associates, to construct and maintain a toll bridge or ferry across the Hell Gate river :"

MR. SPEAKER—Your Committee on Incorporations have examined Council Bill No. 24, and respectfully report the same back to the House, with the recommendation that the bill be passed, first having amended it, as follows :

In section one, line 4, strike out the words "at their option."

Also, in same section, line six, strike out the words "or Missoula."

Also, in same section, line 18, strike out the word "ten," and insert "five."

In section 2, line 22, after the word "court," insert the words "or before any justice of the peace."

Add Sec. 4. "The county commissioners of Deer Lodge county shall at any regular meeting of the board, after the completion of said ferry or bridge, have the power to reduce the rates of toll as provided in section 3 of this act."

Add Sec. 5. "This bill may be modified or amended at any future session of the legislature."

Change section 4 to section 6.

Mr. McCullough moved to adopt the report by sections as amended. Carried.

The amendments were then adopted as reported, except as to the word "five" recommended by the report.

The bill was then adopted as amended, and, on motion of Mr. Mayhew, the rule was suspended, and the bill read the third time, and passed by the following vote:

Roll called.

*Ayes*—Messrs. Andrews, Blakely, Buck, Clanton, Donegan, Esler, Gorham, Johnson, Jordan, McCullough, McMannus, McMurtry, Mimms, Rhodes, Roach, Rogers, Smith, Van Hagan, Wylie, and Mr. Speaker—20.

*Nays*—None.

Mr. Donegan reported Joint Resolution No. 1 as correctly enrolled.

Mr. Smith reported House Bills Nos. 14, 16 and 17 as correctly engrossed.

The following message was received from His Excellency the Governor, through his private secretary, Mr. Moore:

EXECUTIVE OFFICE, TERRITORY OF MONTANA, }  
VIRGINIA CITY, Nov. 20, 1866. }

GENTLEMEN—After much inquiry and discussion among the people, and conversations with various members of the Legislature, I fix upon this opportunity to call your attention to the propriety of establishing at this time, for the Territory, an institution for the procurement and preservation of all and everything that is interesting within the Territory, and whereby valuables and curiosities can be secured and handed down to the future, which otherwise may, in a few years, pass away or be destroyed.

No country affords more advantages for a large and attractive museum, an assorted cabinet of ores, metals, etc., than this, and I am persuaded that every one will take an interest in the matter and make contributions, and it will be but a few years before each citizen will be proud of such an institution.

I, therefore, respectfully suggest that a small appropriation be made, to place the enterprise on a safe footing, so that it may be added to from year to year as necessity may demand.

I will also suggest the granting of a charter to such individuals as you may select, for the establishment of an agricultural, a mechanical and mineral association, with proper rules and restrictions for its government.

Nothing certainly will more rapidly and surely develop the resources of this Territory than the foregoing institutions, if properly established and cared for, nor will anything probably tend more to fix citizenship and interest the people in improving the country.

(Signed)

GREEN CLAY SMITH.

Mr. Johnson moved that the House go into Committee of the Whole to consider House Bill No. 13 and Council Bill No. 10. Lost.

On motion of Mr. Andrews, the Governor's message was referred to a Select Committee of five—Messrs. Andrews, Van Hagan, Buck, Esler, and Jordan.

H. B. No. 14 was then taken up, "An Act to authorize H.

Clay Graves, Thomas Burden, their heirs and associates, to construct and maintain a toll road.

Mr. Wylie moved that H. B. No. 14 be read third time by its title, and put upon its final passage.

Carried.

The bill was then read the third time by its title, and passed by the following vote:

Roll called.

*Ayes* — Messrs. Andrews, Blakely, Buck, Clanton, Esler, Gallaher, McCullough, McMannus, McMurtry, Mimms, Roach, Rogers, Van Hagan, Wylie, and Mr. Speaker—15.

*Nays*—Messrs. Donegan, Gorham, Johnson, Jordan, and Rhodes—5.

H. B. No. 17, "An Act to invest religious, charitable, educational and other societies with certain powers of bodies corporate," was taken up, read the third time, and passed by the following vote:

Roll called.

*Ayes*—Messrs. Blakely, Buck, Clanton, Donegan, Esler, Gallaher, Gorham, Johnson, Jordan, McMannus, McMurtry, Mimms, Rhodes, Roach, Rogers, Van Hagan, and Mr. Speaker—17.

*Nays*—Messrs. Andrews and McCullough—2.

Absent—Messrs. Smith and Wylie.

Title agreed to.

H. B. No. 16, "An Act to authorize Charles Francisco and David P. Abbott to construct a ferry on Sun river," was recommended to Committee on Engrossment.

Mr. McMurtry, chairman of the Committee on Judiciary, made the following report upon H. B. No. 27, "An Act defining the western boundary of Montana Territory on the Clark's Fork of the Columbia river:—"

MR. SPEAKER—Your Committee on Judiciary, to whom was referred H. B. No. 27, beg leave to report the same back, and recommend that it do not pass. Such an act would be usurping or arrogating to itself by the legislature, judiciary powers, which we as heartily condemn in the legislature as we would a usurpation of legislative powers in the judiciary.

Report received, and adopted.

Mr. McCullough moved that the bill be indefinitely postponed. Carried.

On motion of Mr. Roach, the House resolved itself into Committee of the Whole to consider Council Bill No. 10 and House Bill No. 13.

Mr. Mimms in the chair. House resumed.

Mr. Johnson moved to adjourn. Lost.

Mr. Mimms, chairman of the Committee of the Whole, reported as follows, upon C. B. No. 10 and H. B. No. 13 :

MR. SPEAKER—The Committee of the Whole, to whom was referred Council Bill No. 10, and House Bill No. 13, have had the same under consideration, and as chairman of the Committee, I am instructed to report back to the House C. B. No. 10, with the recommendation that the bill do pass.

On motion of Mr. Smith, C. B. No. 10, "An Act authorizing John Wilson and R. E. Eddy to establish and maintain a ferry across the Missoula river," was read the third time and placed upon its final passage.

A call of the House was ordered, and the Sergeant-at-Arms sent for the absent members.

Mr. Blakely moved that further proceedings under the call be dispensed with. Carried.

The vote was then taken upon the passage of Council Bill No. 10, as follows :

Roll called.

*Ayes*—Messrs. Andrews, Blakely, Buck, Esler, McMannus, McMurtry, Smith, Van Hagan, Wylie, and Mr. Speaker—10.

*Nays*—Messrs. Clanton, Donegan, Gallaher, Gorham, Johnson, Jordan, Mimms, Rhodes, Roach, and Rogers—10.

And the bill was lost.

On motion of Mr. Smith, the House adjourned to 10 o'clock, to-morrow morning.

A. E. MAYHEW,  
*Speaker.*

A. H. BARRET,  
*Chief Clerk.*



## SEVENTEENTH DAY.

NOVEMBER 21, 1866.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—Members all in their seats.

Minutes of yesterday read and approved.

Mr. Smith gave notice that he would, on to-morrow or some future day, introduce "A Bill for an act to change the capital of the Territory."

Mr. McMannus gave notice that he would introduce "An Act to authorize John Lenan to maintain a ferry across Hell Gate river, at or near the mouth of Bear Creek, in Deer Lodge county."

Mr. Gorham introduced, pursuant to previous notice, H. B. No. 30, "An Act to incorporate the Brown's Gulch and Silver Bow Ditch Company."

Read first and second time, and referred to the Committee on Incorporations.

Mr. Esler introduced H. B. No. 31, pursuant to previous notice, "An Act to incorporate the Fairbanks Town Company."

Read first and second time, and referred to Committee on Incorporations.

Mr. Donegan, having given previous notice, introduced H. B. No. 32, "An Act to incorporate the Bannack City and Fort Lemhi Wagon Road Co."

Read first and second time, and referred to the Committee on Incorporations.

Mr. Mimms, having given previous notice, introduced H. B. No. 33, "An Act to create a common school fund."

Read first time, and rejected.

Mr. Andrews, having given notice, introduced H. B. No. 34, "An Act to authorize J. C. Kerley and Wm. H. Todd, their heirs and assigns, to construct and maintain a water ditch from Monmouth Gulch to Red Mountain City, in Deer Lodge county."

Read first and second time, and referred to the Committee on Mines and Minerals.

The following message was received from the Council, by its Chief Clerk, Mr. Lovell:

Mr. Lowry introduced, under previous notice, a bill for "An Act entitled an act to authorize Owen Gilmore and M. P. Lowry to establish and maintain a ferry or toll bridge across Sun river," being C. B. No. 29.

Mr. Brown introduced, under previous notice, a bill entitled "An Act defining who shall be competent to testify in civil cases in the several courts of Montana Territory," being C. B. No. 32.

Mr. Chiles, under previous notice, introduced a bill entitled "An Act supplementary to an act in relation to notaries public," being C. B. No. 31.

Mr. Brown, by consent, introduced a bill entitled "An Act to incorporate the Blackfoot City Water Company," being C. B. No. 33.

Mr. Phelps, by consent, introduced a bill for "An Act to incorporate the Lemhi and Big Horn River Wagon Road and Bridge Company," being C. B. No. 30.

Mr. Spratt introduced, by consent, a bill for "An Act entitled an act to divorce Frances McCormick from the bonds of matrimony contracted with Isom McCormick," being C. B. No. 34.

That the amendments of the House to Council Bill No. 24, being a bill for "An Act to authorize J. A. Johnston and C. F. McCarty, their heirs, assigns and associates, to establish a bridge

or ferry across the Hell Gate river," were concurred in, and the bill, as amended, passed by the Council.

On motion of Mr. Chiles, H. B. No. 12 was taken up by the Council, and rules suspended, bill read a third time, and, as amended, passed the Council.

Council Bill No. 9, a bill for "An Act in relation to contracts, bills of exchange, etc.," was taken up, rules suspended, read a third time, and passed.

Mr. Chiles introduced C. B. No. 35, entitled "An Act in relation to officers failing to make report as required by law."

Mr. Wilkinson, by consent, introduced Joint Resolution No. 4, "Authorizing the appointment of commissioners to the Paris Exhibition."

Resolution read first and second time, rules suspended, and resolution read third time and passed, which is herewith presented.

Council Bill No. 15, "An Act for increased compensation to officers and other persons."

Rules suspended, bill engrossed, read a third time, and passed.

Council Bill No. 31, "An Act concerning notaries public," was taken up.

Rules suspended, bill considered engrossed, read a third time, and passed.

House Bill No. 18 was taken up, rules suspended, bill read a third time, and passed.

Council Bill No. 29, "An Act to authorize Owen Gilmore and M. P. Lowry to construct a bridge or ferry across Sun river," was taken up, rules suspended, bill considered engrossed, read a third time, and passed.

Mr. Bagg offered the following Joint Resolution (which is herewith presented), which was read and adopted by the Council.

The following communication was received from His Excellency the Governor, through his private secretary, Mr. Moore:

That he had approved H. B. No. 8, "An Act to change the name of Muscleshell county and county seat."

The Select Committee appointed upon H. B. No. 15, "An Act to incorporate the Missouri River Boom and Lumber Company," reported as follows :

MR. SPEAKER—Your Committee, to whom was referred H. B. No. 15, entitled "An Act to incorporate the Missouri River Boom and Lumber Company," beg leave to submit the following report :

To the best of our information, as obtained from persons who are acquainted in the vicinity where the said company propose to locate, we deem the following facts worthy of a minute and careful consideration of each and every member of this House, viz. : The distance from Fort Benton to the falls, by land, is about twenty miles. The distance by water is about fifty miles. This company ask the exclusive privilege of maintaining a boom at any point they may select on said fifty miles of river, between Fort Benton and the falls. The reading of the bill admits of a double meaning: 1st. That this exclusive privilege shall apply to the place at which the company shall erect said boom. 2nd. That the exclusive privilege shall apply to the fifty miles of river lying between Fort Benton and the falls. Our impression is, that the applicants ask for the exclusive privilege of said fifty miles of the river. On this point we consider that the bill should be so altered or amended as to admit of but one meaning, and that explicit. The enacting clause of said bill contains matter that should always be classed in a section, being either a part or the whole thereof. Said bill contains no limitation of the time at which the privileges asked for shall expire. Should said bill pass, we earnestly recommend that the repealing clause should either be inserted or subjoined.

It being our province to recommend and not to amend, we, therefore, with this statement of facts and our opinions based thereon, report the bill back, with the recommendation that it be considered in Committee of the Whole.

Most respectfully,

J. H. ROGERS, *Chairman pro tem.*

Report adopted, and the Committee discharged.

Mr. McMurtry reported as follows on H. B. No. 29 :

MR. SPEAKER—Your Committee on Judiciary, to whom was

referred H. B. No. 29, beg leave to report the same back, and recommend that it do pass.

Also, on H. B. No. 11, "An Act for maintaining and defending possessory rights upon the public domain in Montana Territory":

MR. SPEAKER—Your Committee on Judiciary, to whom was referred H. B. No. 11, beg leave to report the same, and recommend that it do not pass.

Mr. Donegan reported H. B. No. 12 as correctly enrolled.

Mr. Mimms offered a resolution to amend Rule 36 of the Standing Rules of the House, which was lost.

Mr. Gallaher moved to reconsider the vote by which C. B. No. 10 was lost.

Mr. Rogers moved to lay the motion to reconsider on the table. Lost.

The motion to reconsider was then put and carried.

Mr. McCullough moved to refer the bill to the Judiciary Committee. Lost.

Mr. McCullough offered the following amendment to C. B. No. 10, which was adopted:

Add section 5, "Any future session of the Legislature may modify or amend this bill."

Change section 5 to section 6.

Mr. Rogers moved to amend section 6, so as to read "February 1st, 1867," which was adopted.

Mr. Gorham moved to amend the rates of toll as follows:

For one wagon and span of animals, . . . . .	\$1.50
For each additional span, . . . . .	25
Horsemen, . . . . .	25
And all loose stock, . . . . .	10

Lost.

A call of the House was ordered. Members all present.

C. B. No. 10, "An Act authorizing John Wilson and R. E. Eddy to construct and maintain a ferry across the Missoula river," was, on a suspension of the rules, read a third time by its title, and passed by the following vote:

*Ayes*—Messrs. Andrews, Blakely, Buck, Esler, Gallaher, McMannus, McMurtry, Mimms, Rogers, Smith, Van Hagan, Wylie, and Mr. Speaker—13.

*Nays*—Messrs. Clanton, Donegan, Gorham, Johnson, Jordan, McCullough, Rhodes, and Roach—8.

Council Joint Resolution No. 5 was then taken up, and read first and second time, rules suspended, read third time, and passed by the following vote:

*Ayes*—Messrs. Andrews, Buck, Clanton, Donegan, Esler, Gorham, Jordan, McCullough, McMannus, McMurtry, Mimms, Rhodes, Roach, Rogers, Wylie, and Mr. Speaker—16.

C. R. No. 4 was referred to Committee of the Whole House, and made the special order for 2½ o'clock.

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#### AFTERNOON SESSION.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—Members all present.

Mr. Mannus introduced the following resolution, which was read, and, upon motion of Mr. Van Hagan, was indefinitely postponed:

*Whereas*, It has been currently reported and generally believed by the people of this Territory that our worthy delegate to Con-



gress has been captured by the Indians, or foully made away with by some parties; and, whereas, this Territory is without a delegate to look after its interests or affairs in the United States Congress; therefore—

*Be it Resolved*, By the House of Representatives, the Council concurring, that all memorials, resolutions, and other documents from this legislature to Congress, be directed to the Honorable D. C. Holbrook, the very able and energetic delegate from Idaho Territory, with a request that he present the same to Congress, the President, and the heads of the different departments.

Mr. Wylie moved that H. B. No. 15 be referred to the Committee of the Whole House, to be taken up in its regular order. Carried.

Mr. Johnson moved that the House resolve itself into Committee of the Whole to consider H. B. No. 15, "An Act to incorporate the Missouri River Boom and Lumber Company," which motion was adopted.

Mr. Johnson in the chair.

House resumed.

The House was then adjourned to 7 o'clock, P. M.

## EVENING SESSION.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—Members all present.

Mr. Johnson made the following report from the Committee of the Whole:

MR. SPEAKER—The Committee of the Whole House, having had under consideration Joint Resolution No. 4, direct me to report the same back to the House, with the recommendation that it do pass.

Also, having had under consideration House Bill No. 15, do recommend the following amendments to the same:

Strike out the words "and it is hereby enacted by the authority of the same," in lines two and three in section 1.

In section 4, insert the words "for the term of fifteen years," in line three, immediately after the words "and maintaining;" also, in line eight, strike out the words "and other timber," and insert instead, "such timber as they may cut and place in the river."

Insert as section 6—

"SEC. 6. That any subsequent Legislature shall have the power to alter, amend or modify this bill."

Insert as section 7—

"SEC. 7. That this act shall be in force and effect from and after its passage."

And the Committee do instruct me to recommend the passage of the bill, with the amendments proposed.

W. W. JOHNSON,

*Chairman Committee of the Whole.*

Mr. Johnson moved to lay H. B. No. 15, "An Act to incorporate the Missouri River Boom and Lumber Company," with the

report of the Committee of the Whole, upon the table, for further consideration.

Mr. Esler moved to lay Mr. Johnson's report on the table.  
Lost.

Mr. Johnson's motion was then put, and lost.

Mr. Smith moved to adopt the amendments, as recommended by the Committee of the Whole, which motion was adopted.

C. J. R. No. 4 was then read for information.

Mr. McCullough moved to indefinitely postpone C. J. R. No. 4.

Mr. Smith moved to lay Mr. McCullough's motion on the table.  
Carried.

Mr. Wylie moved to amend the resolution, by striking out the names of "Tiernan and Turney."

A call of the House was ordered.

Roll called—Mr. Gorham absent.

Mr. Blakely moved that further proceedings under the call be dispensed with. Carried.

The roll was then called, and the vote to adopt the amendments to C. J. R. No. 4, "Asking for the appointment of commissioners to the Paris Exhibition," resulted as follows:

*Ayes*—Messrs. Blakely, Clanton, Gallaher, Johnson, Jordan, McCullough, McMurtry, Rhodes, Roach, Rogers, Wylie, and Mr. Speaker—12.

*Nays*—Messrs. Andrews, Buck, Donegan, Esler, McMannus, Mimms, Smith, and Van Hagan—8.

And the amendment was adopted.

The resolution was then laid upon the table for further consideration.

H. B. No. 15, "An Act to incorporate the Missouri River Boom and Lumber Company," was then taken up, and read, with the amendments adopted by the Committee of the Whole.

Mr. Rogers moved to adopt the amendments, and the bill as amended. Carried.

Mr. Rogers moved that H. B. No. 15 be considered engrossed, and passed to a third reading. Lost.

The bill was then ordered engrossed for a third reading.

C. B. No. 31, "An Act supplementary to an act in relation to notaries public."

Read first and second time, and referred to the Judiciary Committee.

C. B. No. 9, "An Act in relation to contracts, bonds, bills of exchange, etc., was read first and second time by its title, and referred to the Judiciary Committee.

C. B. No. 29, "An Act to authorize Owen Gillmore and M. P. Lowry to establish and maintain a ferry or toll bridge across Sun river," was read the first and second time, and referred to the Committee on Incorporations.

C. B. No. 15, "An Act entitled an act providing for increased compensation to officers of this Territory, and for other purposes," was read the first and second time.

Mr. Donegan moved to postpone the bill indefinitely, which motion was lost.

The bill was then referred to the Committee on Finance.

H. B. No. 16, "An Act to authorize Charles Francisco and David P. Abbott to construct and maintain a ferry across Sun river," was read the third time, and passed by the following vote:

Ayes, 17; nays, 2.

Those voting in the affirmative were—Messrs. Andrews, Blakely, Buck, Donegan, Esler, Gallaher, Johnson, Jordan, McCullough, McMannus, McMurtry, Rhodes, Rogers, Smith, Van Hagan, Wylie, and Mr. Speaker—17.

Those voting in the negative were—Messrs. Mimms, and Roach—2.

The title of the bill was then agreed to.

Mr. Donegan, chairman of the Committee on Enrollment, reported that he had presented H. B. No. 12 to the Governor, for his signature, at 1 o'clock, P. M., Nov. 21st.

H. B. No. 29, "An Act to provide for the payment of costs by counties attached to others for judicial purposes, and in cases transferred from one county to another for trial in Montana Territory," was read for information.

Mr. McCullough moved that the bill be considered engrossed, read a third time by its title, and put upon its final passage. Carried.

The bill was then read a third time by its title, and passed by the following vote :

Roll called.

Those voting in the affirmative were : Messrs. Andrews, Blakely, Buck, Donegan, Esler, Gallaher, Johnson, Jordan, McCullough, McMannus, McMurtry, Mimms, Rhodes, Roach, Rogers, Van Hagan, Wylie, and Mr. Speaker—18.

*Nays*—none.

The title was then agreed to.

On motion of Mr. McCullough, the House adjourned to 10 o'clock, A. M., to-morrow.

A. E. MAYHEW,  
*Speaker.*

A. H. BARRET,  
*Chief Clerk.*

## EIGHTEENTH DAY

NOVEMBER 22, 1866.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—Members all present.

Minutes of yesterday read and approved.

The following message was received from the Governor, through Mr. Moore, his private secretary :

That he had approved and signed H. B. No. 18, "An Act to amend an act entitled an act to incorporate the Bannack Ditch and Mining Company."

Mr. McMurtry reported as follows :

MR. SPEAKER—Your Committee on Judiciary, to whom was referred C. B. No. 31, beg leave to report on same, and recommend its passage, with the following amendment :

In section 1, fourth line from the bottom of the section, strike out the word "fifteen," and insert "five."

Mr. Smith reported H. B. No. 18 correctly enrolled, and presented to the Governor for his approval.

Mr. Smith reported H. B. No. 15 as correctly engrossed.

Notice of the introduction of the following bills was given :

By Mr. Clanton — "An Act authorizing Lycurgus Orr to establish and maintain a wagon road in Meagher county."



By Mr. Johnson—"An Act entitled an act incorporating the Madison Bridge Company."

By Mr. McMannus—"An Act authorizing J. B. Campbell, Peter Ronan, John S. Lott, Charles M. Celey, and William Nowlan, to organize and incorporate the Virginia City and Helena Telegraph Company."

By Mr. Mimms—"An Act entitled an act to establish the office of county attorney in and for the organized counties in Montana Territory."

Also, "An Act entitled an act to incorporate the City of Helena."

Mr. Esler, in pursuance of previous notice, introduced H. B. No. 35, "An Act to secure persons, animals and wagons from danger arising from mining and other excavations."

Read first and second time.

Mr. Johnson moved to print fifty copies. Lost.

The bill was then referred to the Committee on Judiciary.

Mr. Blakely made the following report upon C. B. No. 15, "An Act to provide increased compensation to officers of this Territory and other persons:"

MR. SPEAKER—Your Committee on Finance, to whom was referred C. B. No. 15, have had the same under consideration, and recommend the same do pass.

On motion of Mr. Johnson, C. B. No. 15 was made the special order for 2½ o'clock, to be considered in Committee of the Whole.

H. B. No. 24 was ordered enrolled.

C. B. No. 28, "An Act requiring criminals to perform labor.

Read first and second time, and referred to the Committee on the Judiciary.

C. B. No. 31, "An Act supplementary to an act in relation to notaries public."

The amendment, as offered by the Committee on Judiciary, was adopted, and the bill, as amended, was adopted.

Read, as amended, for information.

The rules were then suspended, and the bill read a third time by its title, and put upon its final passage.

Roll called.

*Ayes*—Messrs. Blakely, Buck, Clanton, Donegan, Esler, Gallaher, Gorham, Johnson, Jordan, McCullough, McMannus, McMurtry, Mimms, Rhodes, Rogers, Smith, Van Hagan, Wylie, and Mr. Speaker—19.

*Nays*—Messrs. Andrews, and Roach—2.

The title was then agreed to.

H. B. No. 15 was then taken up, and read for information.

H. B. No. 15, "An Act to incorporate the Missouri River Boom and Lumber Company," was then, on suspension of the rules, read a third time by its title, and passed by the following vote :

*Ayes*—Messrs. Andrews, Buck, Clanton, Donegan, Esler, Gallaher, Johnson, McMannus, McMurtry, Rogers, Smith, Van Hagan, and Wylie—13.

*Nays*—Messrs. Blakely, Gorham, Jordan, McCullough, Mimms, Rhodes, Roach, and Mr. Speaker—8.

Mr. Mimms moved to take C. J. R. No. 4 from the table. Carried.

The resolution was then read for information.

Mr. Mimms moved to fill the blanks with the names of Tiernan and Turnley. Lost.

The following message was received from the Council, through its Chief Clerk, Mr. Lovell :

That H. B. No. 4, "An Act authorizing Ray W. Andrews to establish a ferry across the Missouri river," was passed.

C. B. No. 28, "An Act requiring criminals to perform labor," was passed.

Also, that Mr. Wilkinson gave notice that, on to-morrow or some subsequent day, he would introduce "A Bill to authorize B. F. Price, James L. Kirtly and Wm. H. Rogers to construct a toll road."

The Council concurred in the amendments of the House to Council Bill No. 24, being "A Bill for an act to authorize J. A. Johnston, C. F. McCarty, their heirs and assigns and associates, to establish a bridge or ferry across the Hell Gate river."

Council Bill No. 17, being "An Act to amend an act concerning divorces and alimony," was indefinitely postponed.

Mr. Wylie moved to suspend the rule, and that Council Joint Resolution be read a third time by its title, and put upon its final passage.

The resolution was read the third time by its number, and passed by the following vote:

*Ayes*—Messrs. Andrews, Blakely, Buck, Clanton, Donegan, Esler, Gallaher, Gorham, Johnson, Jordan, McMurtry, Mimms, Rhodes, Roach, Rogers, Smith, Van Hagan, Wylie, and Mr. Speaker—19.

*Nays*—Messrs. McCullough and McMannus—2.

H. B. No. 11 was taken up, and, on motion of Mr. McCullough to indefinitely postpone the bill, the ayes and nays were called.

*Ayes*—Messrs. Andrews, Blakely, Buck, Clanton, Esler, Gorham, Johnson, McCullough, McMurtry, Rhodes, Rogers—11.

*Nays*—Messrs. Donegan, Jordan, McMannus, Mimms, Roach, Smith, Wylie, and Mr. Speaker—8.

Mr. Johnson moved to adjourn to 2 o'clock, P. M.

## AFTERNOON SESSION.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—Members all in their seats.

Mr. Gorham asked leave to hand in the minority report upon C. B. No. 15. Leave being granted, Mr. Gorham reported as follows:

MR. SPEAKER—Your Committee on Finance, to whom was referred Council Bill No. 15, have had the same under careful examination, and beg leave to submit the following minority report for the following reasons:

It would incumber an additional tax upon the people for a full session, near twenty-seven thousand dollars, and for the remaining part of this session, between twelve and thirteen thousand dollars, making a considerable increase of the present debt. It is my honest opinion, if we pass this bill it would have a strong tendency to still further depreciate the value of our paper, rendering it almost worthless.

This bill would not, in my opinion, put forty dollars additional pay in the pockets of each member.

For the reasons above, I do hope this body will not fasten an additional tax on the heavily burthened people wherein we would be so poorly remunerated.

T. L. GORHAM.

H. B. No. 14, "An Act to authorize H. Clay Graves, Thomas Burden, their heirs and assigns, to construct and maintain a toll road," was taken up, and the amendments of the Council to the bill were concurred in, and the bill was ordered engrossed.

C. B. No. 33, "An Act to incorporate the Blackfoot City Water Company."

Read first and second time, and referred to the Committee on Incorporations.

C. B. No. 11, "An Act concerning corporations."

Read first and second time, and referred to the Committee on Incorporations.

The following message in writing, was received from the Governor, through Mr. Moore, his private secretary :

EXECUTIVE OFFICE,  
VIRGINIA CITY, M. T., Nov. 22, 1866. }

GENTLEMEN—I return without approval, Bill No. 12, which originated in the House of Representatives, entitled "An Act to authorize Constant Guyot to construct and maintain a toll road from the Little Blackfoot river to the Ten Mile and Helena road," with my objections thereto.

Laws which grant special privileges to individuals or companies should contain obligations and penalties as binding upon individuals and companies as upon the community to be affected by the law.

Section four of this bill permits Mr. Guyot to charge and collect from travelers (footmen excepted) certain rates of toll—and there can be no question but that all tolls by some process or other can be collected. In fact, no one traveling as prescribed in this section can go over the road without paying toll. This is well enough under certain circumstances. But in section three, it reads "That Constant Guyot, his heirs and assigns, be required to keep the said road when completed, in good repair and condition, so as at all seasonable times to render transportation and travel both speedy and safe." How, and by what means Mr. Guyot, his heirs and assigns, are to be compelled to comply with this provision of the charter, the bill does not provide, and any complaint on the part of persons paying toll would be useless and waste of time.

Again, who is to determine when the road is kept in good repair and condition so as at all seasonable times to render transportation and travel speedy and safe? Mr. Guyot, his heirs and assigns, certainly are not the proper persons. Impartial and disinterested men should be selected for such a purpose.

The road is to be finished in twelve months, but the toll gate may be established now, requiring travelers to pay toll, while a great portion of the road is unfinished. It may be said that Mr. Guyot is unable to complete the work without assistance from tolls; if that be true, at least one-half of the road could be put in good condition and received by county commissioners before a toll gate is erected.

I have no objections to opening new routes by private enterprise; on the contrary, rather commend it; but believe the community traveling such route should be protected against wrong and imposition, and there is no better way to do this than by law.

With equal checks and protection there can, in my opinion, be no objection to this bill.

GREEN CLAY SMITH.

The House then resolved itself into Committee of the Whole to consider special order, C. B. No. 15, "An Act to provide increased compensation for officers of Montana Territory and for other persons."

House resumed. Mr. Speaker in the chair.

On motion of Mr. Mimms, the House adjourned to 10 o'clock, to-morrow.

A. E. MAYHEW,  
*Speaker.*

A. H. BARRET,  
*Chief Clerk.*



## NINETEENTH DAY.

NOVEMBER 23, 1866.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—absent, Messrs. Roach, Donegan and McCullough.

Mr. Speaker presented a petition from the members of the bar of Helena, Edgerton county.

Referred to the Joint Committee on the Practice Act.

Mr. McMurtry reported as follows, upon H. B. No. 35, "An Act to secure persons, animals and wagons from danger arising from mining and other excavations:"

MR. SPEAKER—Your Committee on Judiciary, to whom was referred H. B. No. 35, beg leave to report on same, and recommend that it be committed to Committee of the Whole.

Report received, and filed for further consideration.

Mr. Mimms gave notice of the introduction of the following bill on to-morrow, or some future day, "An Act concerning the collection of taxes in the county of Choteau in Montana Territory."

Also, a Joint Resolution "Asking Congress to amend the organic act so as to increase the pay of the Federal appointees, and per diem of the members of the Legislative Assembly of this Territory."

Mr. Johnson, in pursuance of previous notice, introduced H. B.

No. 36, "An Act to incorporate the Madison River Bridge Company."

Read first and second time, and referred to the Committee on Incorporations.

Mr. Smith introduced H. B. No. 37, previous notice having been given, "An Act locating the seat of government in and for the Territory of Montana."

Read first and second time, and referred to a Select Committee of three, consisting of Messrs. Mimms, Rogers, and McMurtry.

Mr. McMurtry introduced H. B. No. 38, previous notice having been given, "An Act to protect bridges, mills, dams, flumes, etc."

Read first and second time, and referred to the Committee on Mines and Minerals.

Mr. McMurtry, previous notice having been given, introduced H. B. No. 39, "An Act to amend an act entitled an act creating the office of district attorneys, fixing their salaries, etc."

Read first and second time, and referred to the Committee on Judiciary.

Mr. Wylie introduced H. B. No. 40, "An Act to amend an act entitled an act defining the duties of county treasurers and the payment of county warrants."

Read first and second time, and referred to the Committee on Finance.

H. B. No. 35 was, on motion of Mr. Johnson, referred to the Committee of the Whole House, and made the special order for for 2½ o'clock, P. M.

Mr. Johnson moved that the further consideration of H. B. No. 12, with the Governor's objection, be postponed until 2 o'clock to-morrow, to be considered in Committee of the Whole.

Carried.

Mr. McMannus moved to adjourn to 2 o'clock, P. M.

## AFTERNOON SESSION.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called.

Mr. Smith moved that the vote by which C. B. No. 15 was committed to the Committee of the Whole be reconsidered.

A call of the House was ordered.

Roll called—Mr. Donegan absent.

Sergeant-at-Arms was sent for Mr. Donegan.

Mr. McMannus moved that further proceedings under the call of the House be dispensed with.

Carried.

Mr. Smith's motion was then adopted by the following vote :

*Ayes*—Messrs. Andrews, Blakely, Buck, Clanton, Esler, Galaher, Johnson, McMannus, McMurtry, Smith, and Van Hagan—11.

*Nays*—Messrs. Donegan, Gorham, Jordan, McCullough, Mimms, Rhodes, Roach, Rogers, Wylie, and Mr. Speaker—10.

On motion of Mr. Smith, the bill was then read for information.

Mr. Smith moved that section 1 of the bill be stricken out, upon which the ayes and nays were demanded.

Roll called.

And the motion was adopted by the following vote :

*Ayes*—Messrs. Andrews, Blakely, Buck, Clanton, Esler, Gallaher, Johnson, McMannus, McMurtry, Smith, Van Hagan, and Wylie—12.

*Nays*—Messrs. Donegan, Gorham, Jordan, McCullough, Mimms, Rhodes, Roach, Rogers, and Mr. Speaker—9.

Mr. Smith offered the following amendment to section 2:

Amend section 2 so as to read after the words "a per diem compensation as follows:"

"To each member of the Legislative Assembly during his attendance at the sessions thereof, the sum of ten dollars; to each of the Chief Clerks, ten dollars; to each of the Assistant Engrossing and Enrolling Clerks, the sum of eight dollars; to each Sergeant-at-Arms, and each Doorkeeper, the sum of eight dollars; to each Fireman, the sum of fourteen dollars; to each page, eight dollars."

On motion to adopt, the ayes and nays were called.

And the motion was adopted by the following vote:

*Ayes*—Messrs. Andrews, Blakely, Buck, Clanton, Esler, Gallaher, Johnson, McMannus, McMurtry, Smith, and Van Hagan—11.

*Nays*—Messrs. Donegan, Gorham, Jordan, McCullough, Mimms, Rhodes, Roach, Rogers, Wylie, and Mr. Speaker—10.

On motion of Mr. Smith, section 3 was stricken out, and section 2 made section 1, section 4 made section 2, and section 5 made section 3.

Mr. Smith moved to adopt the bill as amended.

Ayes and nays were demanded, and the roll called.

And the motion was adopted.

*Ayes*—Messrs. Andrews, Blakely, Buck, Clanton, Esler, Gallaher, Johnson, McMannus, McMurtry, Smith, and Van Hagan—11.

*Nays*—Messrs. Donegan, Gorham, Jordan, McCullough, Mimms, Rhodes, Roach, Rogers, Wylie, and Mr. Speaker—10.

The bill was then read as amended, for information.

Mr. Wylie moved to adjourn. Lost.

Mr. McCullough moved the bill be indefinitely postponed.

Which motion was lost by the following vote :

*Yeas*—Messrs. Donegan, Gorham, Jordan, McCullough, Mimms, Rhodes, Roach, Rogers, Wylie, and Mr. Speaker—10.

*Nays*—Messrs. Andrews, Buck, Blakely, Clanton, Esler, Gallaher, Johnson, McMannus, McMurtry, Smith, and Van Hagan—11.

Mr. Smith moved the main question be now put. Carried.

The bill was then read the third time, and passed by the following vote :

Roll called.

*Ayes*—Messrs. Andrews, Blakely, Buck, Clanton, Esler, Gallaher, Johnson, McMannus, McMurtry, Smith, and Van Hagan—11.

*Nays*—Donegan, Gorham, Jordan, McCullough, Mimms, Roach, Rhodes, Rogers, Wylie, and Mr. Speaker—10.

The title was agreed to.

On motion of Mr. Smith, the House adjourned.

A. E. MAYHEW,  
*Speaker.*

A. H. BARRET,  
*Chief Clerk.*

## TWENTIETH DAY.

NOVEMBER 24, 1866.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—Quorum present.

Mr. McMurtry reported as follows, upon C. B. No. 6 :

MR. SPEAKER—Your Committee on Judiciary, to whom was referred C. B. No. 6, beg leave to report on same, and recommend that it pass, with the following amendment :

Strike out all but the enacting clause, and insert the accompanying as a substitute.

Report received, and adopted.

Mr. Smith reported that H. B. No. 4 was correctly enrolled, and that he had presented the same to the Governor for his approval.

Mr. McMurtry reported as follows, upon C. B. No. 28 :

MR. SPEAKER—Your Committee on Judiciary, to whom was referred C. B. No. 28, beg leave to report the same back, and recommend that it do pass.

Mr. Donegan introduced H. B. No. 43, previous notice being given, "An Act to incorporate the Virginia City and Nevada Ditching and Fluming Company."

Read first and second time, and referred to a Select Committee of three, consisting of Messrs. McCullough, Rogers, and Roach.



Mr. Clanton introduced, in pursuance of previous notice, H. B. No. 44, "An Act granting to Lyeurgus Orr the right to construct a wagon road."

Read first and second time, and referred to the Committee on Incorporations.

Mr. Buck, in pursuance of previous notice, introduced H. B. No. 45, "An Act to amend an act defining the boundary lines of counties in Montana Territory, approved March 30, 1866."

Read first and second time, and Mr. Esler moved to refer to a Select Committee. Lost.

And the bill was referred to the Committee on Towns and Counties.

Mr. Mimms introduced, pursuant to previous notice, H. B. No. 46, "An Act concerning the collection of taxes in Choteau county."

Read first and second time, and referred to the Committee on the Judiciary.

Mr. McCullough reported as follows, from the Committee on Incorporations:

MR. SPEAKER—Your Committee on Incorporations, to whom was referred H. B. No. 31, have examined the same, and beg leave to report the same back, and recommend that it be carefully considered by the House in Committee of the Whole.

Report received, and, on motion of Mr. Smith, bill was referred to the Committee of the Whole, for 2½ o'clock, P. M., Tuesday.

Mr. McCullough, chairman of Committee on Incorporations, reported as follows, on C. B. No. 33, "An Act to incorporate the Blackfoot City Water Company:"

MR. SPEAKER—Your Committee on Incorporations, to whom was referred C. B. No. 33, "An Act to incorporate the Blackfoot City Water Company," have had the same under consideration, and would recommend it be passed, with the following amendments:

Strike out all of section 3 after the word "Territory," in third line from the bottom of section.

Add the following section after section 5:

"SEC. 6. The said company shall collect the following rates for the use of said water:

" Hotels, per week .....	\$2 00
" Private boarding houses, per week .....	1 50
" Restaurants, per week .....	2 00
" Families, each, per week .....	1 50
" Mess, or each person, per week .....	50
" Barber shops, per week .....	2 50
" Wholesale, retail, and drug stores, each, per week ....	1 50
" Saloons, per week .....	2 00
" Butcher shops, per week.....	2 00
" Water used in making mortar, per day.....	1 00

" The county commissioners of Deer Lodge county shall have the power to alter or modify the above rates at any time they may deem proper."

Respectfully submitted.

J. L. McCULLOUGH, *Chairman.*

J. B. WYLIE.

Mr. Mimms, in pursuance of previous notice, introduced H. J. R. No. 2, "Asking Congress to amend the Organic Act, so as to increase the compensation of Federal officers and members of the Legislature of Montana Territory."

Read first and second time, and referred to the Committee on Federal Relations.

Mr. Smith moved to reconsider the vote by which H. B. No. 12 and the Governor's veto message were referred to the Committee of the Whole and made the special order for 2 o'clock. Carried.

The message was then read for information.

A call of the House was ordered.

Roll called—Messrs. Donegan and McMannus absent.

Mr. Rogers moved that further proceedings under the call be dispensed with. Carried.

H. B. No. 12, "An Act to authorize Constant Guyot, his heirs and assigns, to construct and maintain a toll road from the Little Blackfoot river to Helena City," was read the third time, and passed, notwithstanding the Governor's objections, by a two-thirds vote of all the members present.

*Ayes*—Messrs. Andrews, Blakely, Buck, Clanton, Esler, Gallaher, Johnson, McMurtry, Mimms, Rogers, Smith, Van Hagan, Wylie, and Mr. Speaker—14.

*Nays*—Messrs. Donegan, Gorham, Jordan, McCullough, McMannus, Rhodes, and Roach—7.

On motion of Mr. Smith, the House adjourned to 10 o'clock, Monday.

A. E. MAYHEW,  
*Speaker.*

A. H. BARRET,  
*Chief Clerk.*

## TWENTY-FIRST DAY.

NOVEMBER 26, 1866.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—Quorum present.

Minutes of last Saturday read and approved.

Mr. Johnson presented a petition from the citizens of Missoula county.

Mr. Johnson moved that the petition be laid on the table for further consideration. Carried.

Mr. Van Hagan, chairman of the Committee on Towns and Counties, reported as follows, on H. B. No. 45:

MR. SPEAKER—The Committee on Towns and Counties, to whom was referred H. B. No. 45, have examined the same, and report it back to the House, and recommend that it pass, without amendment.

Report received.

Mr. McCullough, chairman of the Committee on Incorporations, reported as follows:

MR. SPEAKER—Your Committee on Incorporations, to whom was referred H. B. No. 36, have considered the same, and beg leave to report the same back to the House, with the

recommendation that this bill be passed, after amending it as follows, viz.:

In section 4, and line 14, strike out "three dollars," and insert "two dollars;" line 18, strike out "fifty cents," and insert "twenty-five cents;" line 19, strike out "twenty-five cents," and insert "fifteen cents."

In section 6, line 7, strike out the words "after two years."

Add section 7—

"SEC. 7. The county commissioners of the county in which this ferry or bridge may be located, shall have the power, on payment of first cost to the owners, to declare the same a free ferry or bridge, at any time after two years from the completion of said ferry or bridge."

Also as follows, upon H. B. No. 42:

MR. SPEAKER—Your Committee on Incorporations respectfully beg leave to report that they have examined H. B. No. 42, and are of the opinion that should the Legislature grant the franchise to the parties named in this bill, it would not facilitate the construction of a telegraph line from Virginia City to Helena, but would force parties having both the means and the intention, to purchase at an unreasonable price, the privilege now granted to every person or company by the laws of the United States.

We are decidedly of the opinion that such a franchise should not be granted to any company, if we would insure the immediate construction of such a line.

Report received.

Also, on C. B. No. 29, as follows:

MR. SPEAKER—Your Committee on Incorporations have carefully examined C. B. No. 29, and report the same back to the House, with the recommendation that it pass, after being amended as follows:

In section 5, line 3, strike out "three years," and insert "one year;" same section, line 2, strike out the word "alter," and insert the word "reduce."

Add to section 5, "This franchise shall not be deemed and

taken as a denial of the right to construct and maintain a free ferry or bridge at any point on the aforesaid Sun river, except the place granted in this charter and four rods on either side."

Change section 5 to section 6, and 6 to 7.

Report received.

Also, as follows, upon C. B. No. 11 :

MR. SPEAKER—The Committee on Incorporations, to whom was referred C. B. No. 11, have carefully considered the provisions of the same, and return it to the House, and would respectfully recommend the consideration of this bill by the House while acting in Committee of the Whole, its provisions affecting, as they will if passed, the people of the Territory at large.

Report received.

Mr. Murtry reported as follows, on C. B. No. 9 :

MR. SPEAKER—Your Committee on Judiciary, to whom was referred C. B. No. 9, beg leave to report the same, and recommend that it do pass.

Also, upon H. B. No. 39 :

MR. SPEAKER—Your Committee on Judiciary, to whom was referred H. B. No. 39, beg leave to report the same back, and recommend that it do pass.

Reports received.

C. J. R. No. 4 was taken up, and the House receded from their amendment.

Mr. Buck gave notice that he would, on to-morrow or some future day, introduce "A Bill authorizing certain parties to construct a bed rock flume in Dry Gulch, Edgerton county."

By Mr. Andrews—"An Act to create the office of a General, and to organize the militia of Montana Territory."



Mr. Blakely gave notice of the introduction of the following bill, "To authorize Fountain Donan, his associates, heirs and assigns, to construct and maintain a toll bridge on the West Galatin river."

Mr. Minms gave notice of the introduction of the following bill and joint resolution:

"An Act to prevent the intermarriage of Indians, Chinese and negroes with whites in Montana Territory."

Also, a Joint Resolution, "Asking Congress to amend the Organic Act so as to authorize the Legislative Assembly of Montana Territory to establish Courts of Common Pleas in the counties of the Territory."

Mr. Blakely introduced H. B. No. 47, "An Act to incorporate the Helena City and Blackfoot City Wagon Road Company."

Read first and second time, and referred to Committee on Incorporations.

Mr. Johnson introduced H. J. M. No. 3, "Memorializing Congress concerning the Walla Walla and Fort Benton Military Road."

Read first and second time, and referred to the Committee on Federal Relations.

On motion of Mr. McCullough, Council Bills Nos. 11 and 29, and House Bills Nos. 36 and 42 were referred to the Committee of the Whole House, and made the special order for 2½ o'clock this P. M.

H. B. No. 5, "An Act to change the county seat of Missoula county, and to legalize the acts of the county commissioners of the said county," was, by unanimous consent, taken from the table.

Read first and second time, and referred to the Committee on Judiciary.

C. B. No. 19, "An Act to authorize George Rolf and John A. Creighton to establish and maintain a toll road in Beaver Head County."

Read first and second time, and referred to a Select Committee composed of Messrs. McMurtry and Wylie, of Deer Lodge county, and Messrs. Smith and Esler, of Beaver Head county.

C. B. No. 28, "An Act requiring criminals to perform labor."

Read first and second time, rules suspended, bill read third time, and passed by the following vote :

*Ayes*—Messrs. Andrews, Blakely, Buck, Clanton, Esler, Gallaher, Gorham, Johnson, Jordan, McCullough, McMannus, McMurtry, Mimms, Rhodes, Smith, Van Hagan, Wylie, and Mr. Speaker—18.

*Nays*—Mr. Donegan.

Title was then agreed to.

C. B. No. 6 was taken up, and the substitute, as offered by the Committee on Judiciary, was read, and with the bill was referred to the Committee of the Whole, to be taken up in its regular order.

C. B. No. 9, "An Act in relation to contracts, bills of exchange, promissory notes and accounts."

On motion of Mr. McCullough, the rules were suspended, and C. B. No. 9 was read the third time by its title, and passed by the following vote :

*Ayes*—Messrs. Buck, Donegan, Esler, Gallaher, Johnson, Jordan, McCullough, McMurtry, Mimms, Rhodes, Rogers, Smith, Van Hagan, Wylie, and Mr. Speaker—15.

*Nays*—None.

Title was agreed to.

Mr. Johnson in the chair.

Mr. Mayhew gave notice that he would introduce, on to-morrow or some subsequent day, "An Act for establishing a miners' hospital for the Territory of Montana, at the city of Helena.

Mr. Mayhew introduced the following resolution, which was read and adopted:

*Resolved*, By the House of Representatives, that the Committee on Federal Relations are hereby requested to prepare a memorial to Congress, asking for appropriations for a territorial prison.

H. B. No. 39, "An Act to amend an act entitled an act creating the office of district attorneys in each of the judicial districts of Montana Territory, defining their duties and privileges, and fixing their salaries."

Mr. McMurtry moved to suspend the rules, and read the bill third time by its title, and put it upon its final passage. Lost.

The bill was then read the third time, and passed by the following vote:

*Ayes*—Messrs. Blakely, Buck, Clanton, Gorham, Johnson, Jordan, McMannus, McMurtry, Roach, Rogers, Smith, and Mr. Speaker—12.

*Nays*—Messrs. Andrews, Donegan, McCullough, Mimms, Rhodes, and Van Hagan—6.

The title was then agreed to.

On motion of Mr. Mayhew, the House adjourned to 2 o'clock, P. M.

## AFTERNOON SESSION.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—Members all present.

The following message was received from the Council, through their Chief Clerk, Mr. Lovell :

Mr. Lowry gave notice of the introduction of " A Bill authorizing C. Rumley, C. Robinson, Charles Dorr, and Owen Gillman, to construct a wagon road from Helena, in Edgerton county, to New York city, in Meagher county, and ferry across Missouri river."

Mr. Phelps gave notice of the introduction of " A Bill to incorporate the town of Clarkston."

The accompanying Concurrent Resolution was presented by Mr. Moore, and adopted by the Council.

Committee appointed by the Council are Messrs. Moore and Waterbury.

Also, that H. B. No. 25, " An Act to incorporate the Helena Water Company," was passed by the Council.

Title agreed to.

Also, C. B. No. 26, " An Act to amend an act incorporating the Missouri River and Rocky Mountain Wagon and Telegraph Company," has passed the Council.

Also, C. B. No. 35, being " An Act in relation to officers failing to make reports as required by law," has passed the Council.

Also, H. B. No. 17, " An Act to invest religious, charitable and educational societies with certain powers of bodies corporate."

The following communication was received from the Council, by its Chief Clerk, Mr. Lovell :

That the Clerk inform the House that the Council do not con-

cur in the amendment of Joint Resolution No. 4, and request the House to recede from its amendment to the same.

C. B. No. 33, "An Act to incorporate the Blackfoot City Water Company," was taken up, and the report adopted.

Mr. McMurtry moved to adopt the amendments to the bill as reported. Carried.

The bill was then adopted as amended.

The rule was then suspended, the bill read the third time, and passed by the following vote:

*Ayes*—Messrs. Andrews, Blakely, Buck, Clanton, Donegan, Gorham, Johnson, Jordan, McMannus, McMurtry, Mimms, Rhodes, Roach, Van Hagan, Wylie, and Mr. Speaker—16.

*Nays*—None.

H. B. No. 45, "An Act to amend an act defining the boundary lines of counties of Montana Territory, approved March 30, 1866," was, on motion of Mr. Johnson, referred to the Committee of the Whole, to be considered in its regular order.

Mr. Donegan, chairman of the Committee on Enrollment, reported H. B. No. 14 as correctly enrolled.

On motion of Mr. McMannus, the House resolved itself into Committee of the Whole.

House resumed. Mr. Speaker in the chair.

Mr. McCullough moved to adjourn. Lost.

Mr. Johnson reported as follows, on C. B. No. 11, from Committee of the Whole:

MR. SPEAKER—The Committee of the Whole House, having had under consideration Council Bill No. 11, direct me to report progress on the same, and recommend that the bill be referred to the Committee on the Judiciary.

Mr. McCullough moved that 50 copies of the substitute to C. B. No. 9 be printed. Carried.

Mr. McMannus moved to adjourn to 10 o'clock to-morrow morning.

A. E. MAYHEW,  
*Speaker.*

WM. Y. LOVELL,  
*Chief Clerk.*



## TWENTY-SECOND DAY.

NOVEMBER 27, 1866.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—Mr. Gallaher absent.

Mr. Rogers in the chair.

Mr. Mayhew moved that the journal be so amended that it will show that the amendments by the House to C. J. R. No. 4 were receded from, and that the proceedings in the afternoon in regard to C. J. R. No. 4 be expunged from the journal.

A call of the House was ordered.

Roll called—Mr. Gallaher absent.

Mr. Blakely moved that further proceedings under the call be dispensed with. Carried.

Mr. Mayhew's motion was then put and carried.

Mr. McMurtry moved the reconsideration of the vote.

The chair decided the motion lost.

Mr. McCullough appealed from the decision of the chair.

Mr. Smith moved the previous question be now put. Carried.

Mr. Mayhew moved the journal be approved as amended. Carried.

Mr. McCullough reported as follows, upon H. B. No. 30 :

MR. SPEAKER—Your Committee on Incorporations, to whom was referred H. B. No. 30, have with care examined the same, and respectfully report the bill back, with the recommendation that it be passed after being amended as follows :

Add section 4, "This act may be altered or amended by any future session of the Legislative Assembly."

Change section 4 to section 5.

Mr. Wylie reported as follows, on H. B. No. 47 :

MR. SPEAKER—Your Committee on Incorporations, to whom was referred H. B. No. 47, have had the same under consideration, and would recommend that it be passed, with the following amendments :

In line 8, section 6, strike out "team," and, in lieu thereof, insert "pair of horses, mules or cattle."

Add after the 11th line, "For each man and horse, twenty-five cents."

Strike out "twenty-five cents" in last line of section 6, and insert "ten."

Report received.

Mr. Rhodes, chairman of Committee on Mines and Minerals, reported as follows, upon H. B. No. 34 :

MR. SPEAKER—Your Committee on Mines and Minerals, to whom was referred House Bill No. 34, beg leave to report that they have had the same under consideration, and recommend that the bill do pass, with the following amendment :

"SEC. 7. That the said ditch be constructed so as to carry five hundred inches of water, and the said incorporators shall have the privilege to enlarge the said ditch to the capacity of two thousand inches of water.

"SEC. 8. That the said incorporators are hereby authorized to charge the sum of one dollar per inch, six pressure, for the first head, seventy-five cents for the second head, and fifty cents for the third head."

Report received.

Mr. Wylie reported as follows, from Committee on Enrollment, on H. B. No. 14:

That H. B. No. 14 was presented to the Governor for his approval at half past 2 o'clock, P. M.

Report received.

Mr. Gorham, chairman of the Committee on Finance, reported as follows, upon H. B. No. 40:

MR. SPEAKER—Your Committee on Finance, to whom was referred H. B. No. 40, have had the same under careful consideration, and beg leave to make the following report:

That section 1 of "An Act entitled an act defining the duties of county treasurers and the payment of territorial and county warrants," approved March 14th, 1866, be amended so as to read, "that from and after the passage of this act all taxes and licenses due the Territory or any county thereof, shall be paid in money, territorial or county warrants, at the time they may become due, in the proportion of such due the Territory or proper county."

Also, to strike out section 3, and amend section 4 by striking out the words "every six months" in line two, after the word "treasurer," and insert "every four months."

Also, in line two, after the word "all," and insert "funds."

Mr. McMurtry made the following report upon H. B. No. 19, "An Act concerning limitations."

MR. SPEAKER—Your Committee on Judiciary, to whom was referred H. B. No. 19, beg leave to report the same back, and recommend its passage with the following amendment:

Strike out all but the enacting clause, and insert the accompanying as a substitute.

Report received.

Mr. McMurtry reported as follows, on H. B. No. 46:

MR. SPEAKER—Your Committee on Judiciary, to whom was referred H. B. No. 46, beg leave to report on same, and recommend that it be laid on the table.

Mr. Johnson gave notice that, on to-morrow, he would introduce "An Act entitled an act concerning roads, highways, trails and public thoroughfares."

Mr. Johnson, on leave, introduced H. B. No. 48, "An Act concerning roads, bridges, trails, highways, and thoroughfares."

Read first time, and, on motion of Mr. Mayhew to reject the bill, the ayes and nays were called.

*Aye*—Mr. Speaker.

*Nays*—Messrs. Andrews, Blakely, Buck, Clanton, Donegan, Esler, Gorham, Johnson, Jordan, McCullough, McMeurtry, Mimms, McMannus, Roach, Rogers, Smith, Van Hagan, and Wylie—18.

And the motion was lost.

The bill was then read the second time, and, on motion of Mr. McCullough, 50 copies of the bill were ordered printed.

Mr. McCullough moved to adjourn. Lost.

Mr. Mayhew moved that the House go into Committee of the Whole, to consider all bills referred to the Committee of the Whole.

On motion of Mr. Blakely, the House adjourned to 2 P. M.

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#### AFTERNOON SESSION.

House met pursuant to adjournment.

Roll called—Quorum present.

The following communication was received from the Governor, through his private secretary, Mr. Moore :

That he had approved and signed H. B. No. 4, entitled "An Act authorizing R. W. Andrews to establish a ferry across the Missouri river."

Also, H. B. No. 14, "An Act authorizing H. Clay Graves, Thomas Burden and their associates, to construct and maintain a wagon road."

Mr. Rogers introduced H. B. No. 49, "An Act to amend an act entitled an act to incorporate the Montana Ferry and Bridge Company approved Feb. 8, 1866."

Read first and second time, and referred to the Committee on Incorporations.

Mr. Mimms, by consent of the House, introduced H. B. No. 50, "An Act to amend an act defining the boundary lines of counties in Montana Territory."

Read first and second time; and Mr. Andrews moved to suspend the rules, read the third time, and put upon its final passage. Lost.

The bill was then referred to the Committee on Towns and Counties.

Mr. Esler introduced H. B. No. 51, previous notice being given, "An Act to incorporate the Legal Tender Tunneling Company."

Read first and second time; and Mr. Rogers moved to lay the bill on the table for further consideration.

Upon which motion, the yeas and nays were demanded.

Roll called.

*Ayes*—Messrs. Jordan, McCullough, Mimms, Roach, Rogers, Wylie, and Mr. Speaker—7.

*Nays*—Messrs. Andrews, Blakely, Buck, Clanton, Donegan, Esler, Gorham, Johnson, McMannus, McMurtry, Rhodes, Smith, and Van Hagan—13.

And the motion was lost.

C. B. No. 26, "An Act to amend an act to incorporate the Missouri River and Rocky Mountain Wagon Road Company."

Read first and second time, and referred to Committee on Incorporations.

C. B. No. 35, "An Act in relation to officers failing to make reports as required by law."

Read first and second time, and referred to Committee on Judiciary.

Council Resolution in relation to appointing a Committee of two from the Council and three from the House to ascertain all the facts in regard to Choteau county," was adopted, and Messrs. Roach, Johnson, and Buck, were appointed as such committee.

C. B. No. 7, "An Act to amend an act respecting administrators, etc."

Read first and second time, and referred to the Committee on Judiciary.

C. B. No. 18, "An Act to incorporate the Clark's Fork and Fort Benton Wagon Road Company."

Read first and second time, and referred to the Committee on Incorporations.

H. B. No. 40. Report of the Committee adopted.

Amendments adopted as reported by the Committee, and the bill adopted as amended, and ordered engrossed.

H. B. No. 30. The report was adopted.

The amendments to the bill were then adopted as reported by the committee.

And the bill adopted as amended, and ordered engrossed.

House Joint Resolution No. 2. Report of the Committee on Federal Relations was adopted, and a Select Committee of three appointed, as recommended by the committee.



The chair appointed as such committee, Messrs. Rogers, Mimms, and Wylie.

The following message was received from the Council, through their Chief Clerk, Mr. Lovell :

Mr. Wilkinson gave notice of the introduction of "A Bill authorizing Robert Tingley and his associates to construct a wagon road around the falls of the Missouri river."

Mr. Orr gave notice of the introduction of "A Bill in relation to mines and miners."

Mr. Spratt, of "A Bill regulating the mode and manner of change of venue."

Also, that the Council refuse to concur with House in amendments to C. B. No. 15, being "A Bill for an act entitled an act providing for increased compensation to officers of this Territory, etc.," and ask the House to recede from their amendments.

Also, that Council Bill No. 18, being "An Act to incorporate Clark's Fork and Fort Benton Wagon Road Company," has passed the Council, and title agreed to.

Also, that C. B. No. 27, being "An Act to amend an act entitled an act respecting executors and administrators," has passed the Council, and title agreed to.

Mr. McMurtry gave notice that he would, on to-morrow or some subsequent day, introduce "A Bill to amend an act entitled an act to incorporate the Little Prickly Pear Wagon Road Company."

Mr. Van Hagan moved to adjourn. Lost.

Mr. Rogers offered the following resolution, which was adopted :

*Resolved*, That the chairman of the Judiciary Committee be now requested to return Council Bill No. 11, entitled "An Act concerning incorporations," to this House, either with or without a report on the same.

*And be it further resolved,* That the House do now go into a consideration of said Council Bill No. 11.

Council Bill No. 11 was, on motion, returned to the House and referred to the Committee of the Whole, to be taken up in its regular order.

Mr. Roach moved to adjourn to 7 o'clock, P. M. Lost.

Mr. Buck moved to adjourn to 10 o'clock, to-morrow. Carried.

A. E. MAYHEW,

*Speaker.*

A. H. BARRET,

*Chief Clerk.*

## TWENTY-THIRD DAY.

NOVEMBER 28, 1866.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—absent, Messrs. Clanton and Smith.

Mr. McMurtry reported as follows, on H. J. M. No. 2:

Your Committee on Judiciary, to whom was referred H. J. M. No. 2, beg leave to report the same, and recommend that it do pass.

Report received, and adopted.

Mr. Mimms moved to suspend the rules, and read the memorial the third time by its number, and put it upon its final passage. Carried.

The memorial was then read the third time, and passed by the following vote:

*Ayes*—Messrs. Andrews, Blakely, Buck, Donegan, Esler, Gallagher, Gorham, Johnson, Jordan, McCullough, McMannus, McMurtry, Mimms, Rhodes, Roach, Rogers, Van Hagan, Wylie, and Mr. Speaker—19.

Mr. Murtry, chairman of Committee on Judiciary, made the following report on C. B. No. 35, "An Act in relation to officers failing to make reports, as required by law":

MR. SPEAKER—Your Committee on Judiciary, to whom was referred C. B. No. 35, beg leave to report on same, and recommend that it pass.

Report adopted.

Mr. McMurtry reported as follows, on C. B. No. 27 :

MR. SPEAKER—Your Committee on Judiciary, to whom was referred C. B. No. 27, beg leave to report on same, and recommend that it do pass.

Mr. Rogers, chairman of Select Committee, reported as follows, on H. J. R. No. 2 :

MR. SPEAKER—Your Committee, to whom was referred House Joint Resolution No. 2 for revision, find it necessary to make the following changes in said resolution :

On page 3, in line 13, strike out the word "they," and insert the words "the officers herein mentioned," instead thereof.

On same page strike out lines 19 and 20, and also the word "and," in line 18. Subjoin the word "to," so that the salary of the Federal officers shall be increased *to* four thousand dollars, and not increased four thousand dollars, which would make their salary as much too large as it is now too small.

Add, at the close of said resolution, the words "as are herein set forth."

Mr. Wylie moved to adopt the amendments. Carried.

The resolution was then adopted as amended, and ordered engrossed.

On motion of Mr. Mimms, the House then proceeded to elect a temporary Engrossing Clerk.

Mr. Johnson placed in nomination Mr. William Meagher.

Mr. McMurtry placed in nomination Mr. C. L. Craig.

There being no further nominations, the House then proceeded to vote.

Those voting for Mr. Craig were—Messrs. Andrews, Blakely, Donegan, Gallaher, Gorham, McCullough, McMurtry, Mimms, Rhodes, Roach, Rogers, and Wylie—12.

Those voting for Mr. Meagher were—Messrs. Buck, Johnson, Jordan, McMannus, Van Hagan, and Mr. Speaker—6.

Mr. Craig, having received a majority of all the votes cast, was declared elected Engrossing Clerk.

Mr. Mimms made the following report from the Select Committee, to whom was referred H. B. No. 37, "An Act locating the seat of government of Montana Territory":

MR. SPEAKER—Your Select Committee, to whom was referred H. B. No. 37, "An Act to amend an act locating the seat of government in and for Montana Territory," have had the same under consideration, and ask leave to report the same back to the House, with the following statement of facts existing in relation thereto (see Organic Act, sec. 12, which reads as follows, in part: "That the seat of government fixed by the Governor and Legislative Assembly, shall not at any time, be changed, except by an act of said Assembly, duly passed, and which shall be approved, after due notice, at the first general election thereafter, by a majority of the votes cast upon that question.") That the bill under consideration has for its object the permanent location of the seat of government, as provided by the Organic Act. That whenever the question is submitted to and acted upon by a vote of the people, in the opinion of the Committee, the question under the Organic Act is permanently settled. That, until the capital is permanently located, we cannot reasonably expect Congress to make any appropriations for the purposes of public buildings. That the city of Helena, the place designated in the bill, in a geographical point of view, is situate about the centre of the Territory, and easy of ingress and egress at all seasons of the year. That it is situate in the centre of a vast mineral region, unsurpassed either in extent or richness, by any section of our country, abounding, as it does, with gold, silver and copper-bearing lodes. That many of our gold and silver lodes have been developed, and mills and crushers for the reduction of the mineral rock are in successful operation, attesting to credulous mankind that our mountains are rich in the precious metals, and the Territory only awaits the investment of capital for it to become first among the mining countries of our continent. That numerous beautiful valleys are spread out in close proximity to each other, affording ample scope for the agriculturist, with

a vast domain for grazing purposes; while the towering hills around are covered with dense forests of beautiful pines, affording an abundance of building material and fuel. Situate, as it is, about equi-distant from Virginia City and Fort Benton, and about equi-distant between the great valleys of the Missoula and Deer Lodge on the one hand, and the Gallatin and Missouri on the east, with the valley of the Prickly Pear lying in full view; while on the south lies the populous and rich valley of the Boulder, with its rich, golden harvest of grain and numerous hay mounds, and the Little Prickly Pear and Sun rivers to the north, offering inducements to the tiller of the soil and hardy pioneer to establish himself a home. That it is the most populous city of our Territory, containing, perhaps, between eight and ten thousand inhabitants, with buildings and structures of the most enduring and costly style, evidencing in every department of business a confidence, on the part of the people, in the fact that the city of Helena is a fixed and permanent city. Thus, with such views, and believing that sound policy dictates that the time has come in which this question should be settled permanently, and, when done, that the Congress of the United States will be kind and generous enough to appropriate a sufficient sum to erect such buildings as would be in keeping with the proud and elevated position of Montana; and believing, further, by locating the seat of government at the city of Helena, as provided in the bill, the question will be settled, and the major part of our population be accommodated and satisfied. Therefore, the bill is hereby reported back to the House, with the recommendation that the bill do pass.

All of which is respectfully submitted.

Mr. McMurtry moved to lay the bill on the table for further consideration. Carried.

Mr. Jordan gave notice that, on to-morrow or some future day, he would introduce a bill for "An Act to establish a common school fund."

Mr. Gallaher gave notice that he would, on to-morrow or some subsequent day, introduce "A Bill authorizing B. F. Price, J. L.



Keithley and Wm. H. Rogers to establish and maintain a toll road from Nevada City, Montana Territory, to Snake river."

Mr. McCullough gave notice that he would introduce a bill for "An Act to regulate by law the fees of the officers of this Territory."

Mr. Mimms gave notice that he would introduce a bill for "An Act to vest certain powers in the board of commissioners of Edgerton county, M. T."

Previous notice having been given, Mr. McMurtry introduced H. B. No. 52, "An Act to amend an act to incorporate the Little Prickly Pear Wagon Road Company."

Read first and second time, and referred to Committee on Incorporations.

Mr. McCullough, previous notice being given, introduced H. B. No. 53, "An Act to authorize Henry Gassett and James Sinclair to construct and maintain a ferry or bridge across the Jefferson river."

Read first and second time, and referred to the Committee on Incorporations.

Mr. Mimms introduced H. B. No. 54, previous notice being given, "An Act for the better observance of the Lord's Day."

Read first and second time, and Mr. McCullough moved to print 50 copies, which motion was lost, and the bill was referred to the Committee on Judiciary.

C. B. No. 35 was read for information, and on motion of Mr. McCullough, was referred to a Select Committee of three.

Messrs. McCullough, Mimms and Van Hagan were appointed as such Committee.

C. B. No. 27 was read for information.

Mr. Mimms moved a suspension of the rules, that the bill be read the third time, and put upon its final passage. Carried.

The bill was then read the third time by its title, and passed by the following vote :

*Ayes*—Messrs. Andrews, Blakely, Buck, Donegan, Esler, Gorham, Johnson, McCullough, McMannus, McMurtry, Mimms, Rhodes, Roach, Van Hagan, Wylie, and Mr. Speaker—16.

*Nays*—None.

Title was agreed to.

Mr. Mimms moved that the vote by which C. B. No. 11 was referred to the Committee of the Whole be reconsidered, and the bill be taken from the Committee of the Whole, and put in the possession of the House ; and the motion was adopted.

H. B. No. 19 was taken up, and, on motion of Mr. Buck, the report was adopted.

Mr. Rogers, chairman of the Committee on Engrossment, reported House Bills Nos. 30 and 40 as correctly engrossed.

Mr. Rogers made the following report from the Select Committee, to whom was referred H. B. No. 43 :

MR. SPEAKER—Your Special Committee, to whom was referred H. B. No. 43, entitled "An Act to incorporate the Virginia and Nevada Ditching and Flaming Company," beg leave to submit the following report :

Such a ditch as this Company propose to construct would be of great benefit to the citizens of Madison county. It would be the means of rendering valuable thirty thousand (30,000) feet of gulch ground, which is now almost worthless, and, without such an enterprise, must remain worthless. We deem it a duty that we should be liberal toward enterprises that must culminate in great good to the communities in which such enterprises are established, especially when their operations can effect only that which must be of no value without the effects of great expenditures on the part of those engaging in such enterprises.

We therefore recommend that House Bill No. 43 be favorably considered by this House, for it simply asks the privilege of mak-

ing something out of that which must be comparatively nothing without such an enterprise is perfected.

On motion of Mr. Blakely, the House adjourned to 2 o'clock, P. M.

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AFTERNOON SESSION.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—Mr. Smith absent.

On motion of Mr. McMurtry the amendments to H. B. No. 19 were adopted by the following vote :

Roll called.

*Ayes*—Messrs. Andrews, Buck, Donegan, Esler, Gallaher, Gorham, McMannus, McMurtry, Van Hagan, and Wylie—10.

*Nays*—Messrs. Clanton, Johnson, Mimms, Rhodes, Roach, Rogers, and Mr. Speaker—7.

Mr. Buck moved to adopt the bill as amended.

A call of the House was ordered.

Roll called—Mr. Smith absent.

Mr. McMurtry moved that further proceedings under the call be dispensed with. Lost.

Mr. Donegan moved that further proceedings under the call be dispensed with. Lost.

Sergeant-at-Arms was sent for Mr. Smith.

Mr. Donegan moved that further proceedings under the call be dispensed with. Lost.

Mr. Rogers moved that further proceedings under the call be dispensed with.

Which motion was carried.

On motion of Mr. Rogers, the Sergeant-at-Arms was instructed to bring Mr. Smith within the bar of this House.

Mr. Donegan moved that Mr. Andrews be sent after the Sergeant-at-Arms. Carried.

The Sergeant-at-Arms reported Mr. Smith as being too unwell to attend.

Mr. Smith was excused.

H. B. No. 19 was then adopted as amended, and the bill ordered engrossed.

H. B. No. 40, "An Act to amend an act entitled an act defining the duties of county treasurers and the payment of county warrants," was taken up and read the third time.

Mr. Mimms moved that the main question be now put. Lost.

Mr. Roach moved that the bill be referred to a Select Committee of three.

Motion lost.

Mr. Donegan moved that 50 copies of the bill be printed. Carried.

Mr. Rogers moved that the House do now go into Committee of the Whole, to consider such bills as have been referred to the Committee of the Whole. Lost.

C. B. No. 11 was then taken up, and Mr. Rogers moved that the bill be read the third time by its title, and put upon its final passage.

Motion lost.

On motion of Mr. Wylie, C. B. No. 11 was referred to the Committee of the Whole, to be considered at 6½ o'clock this P. M.

H. B. No. 30, "An Act to incorporate the Brown's Gulch and Silver Bow Ditch Company."

On motion of Mr. McMurtry, the rules were suspended, the bill read the third time by its title, and put upon its final passage.

H. B. No. 30, was then read the third time by its title, and passed by the following vote:

Roll called.

*Ayes*—Messrs. Andrews, Blakely, Buck, Donegan, Esler, Gal-  
laher, Gorham, Johnson, Jordan, McMurtry, McMannus, Mimms,  
Rhodes, Roach, Rogers, Van Hagan, Wylie, and Mr. Speaker  
—18.

*Nays*—None.

Title agreed to.

Mr. McMurtry gave notice that he would, on to-morrow or some subsequent day, introduce "A Bill entitled an act to incorporate the Montana Stage Company."

The following message was received from the Council, through Mr. Lovell, their Chief Clerk:

That the Council have passed House Bill No. 12, being "An Act to authorize Constant Guyot to construct and maintain a toll road from the Little Blackfoot River to the Ten Mile and Helena Road."

Read, and passed the Council by the following vote:

*Ayes*—11. *Nay*—1.

Over the objections of the Governor.

Also, that H. B. No. 24, being "A Bill for an act to authorize John Swartz, John Noys and C. C. Clark, their heirs and assigns, to construct and maintain a water ditch from Deer Dodge or Silver

Bow Creek to Butte and Rucker cities in Deer Lodge county," has passed the Council.

Title agreed to.

Also, C. B. No. 34, being "An Act to divorce Frances McCormick from the bonds of matrimony contracted with Isom McCormick," has passed the Council.

Title agreed to.

Also, H. B. No. 15, being "An Act to incorporate the Missouri River Boom and Lumber Company," has passed the Council.

Also, Mr. Chiles, under previous notice, introduced C. B. No. 38, being a bill for an act concerning penal bonds."

Also, Mr. Phelps, with consent, introduced C. B. No. 39, "A Bill to repeal section 32 of an act relative to elections."

Also, C. B. No. 21, "An Act to amend an act defining the Council and Representative districts of the Territory of Montana, and apportioning the members of the Legislative Assembly," was read a third time, and passed.

Also, that the Council have concurred in House amendments to C. B. No. 33, being an act to incorporate the Blackfoot City Water Company."

On motion of Mr. Roach, the House adjourned to 6½ o'clock this P. M.

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#### EVENING SESSION.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—Quorum present.

On motion of Mr. Johnson, the House went into Committee of the Whole, to consider C. B. No. 11.



Mr. Mimms in the chair.

House resumed its session.

Mr. Speaker in the chair.

Mr. Mimms, chairman of Committee of the Whole, asked further time to report. Granted.

On motion of Mr. Johnson, the House adjourned to 10 o'clock on Friday morning.

A. E. MAYHEW,  
*Speaker.*

A. H. BARRET,  
*Chief Clerk.*

## TWENTY-FIFTH DAY.

NOVEMBER 30, 1866.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—Messrs. Gorham and Rhodes absent.

Minutes of Wednesday read and approved.

Mr. Wylie presented a petition from the bar of Helena, which petition was referred to the Committee on Judiciary.

Mr. Andrews, chairman of Committee on Printing, reported House Bills Nos. 40 and 48, and the substitute to C. B. No. 6, as correctly printed.

C. B. No. 6, with substitute, and H. B. Nos. 40 and 48, were laid on the table for further consideration.

Mr. Donegan, chairman of Committee on Enrollment, reported H. B. Nos. 17 and 25, as correctly enrolled.

Mr. McMurtry, chairman of Committee on Judiciary, reported as follows on H. B. No. 54:

MR. SPEAKER—Your Committee on Judiciary, to whom was referred House Bill No. 54, beg leave to report the same back to the House, and recommend that it be indefinitely postponed.

Report received.

Mr. Donegan, from the Committee on Enrollment, reported that H. J. R. No. 2 was correctly enrolled.

Mr. Wylie, chairman of the Select Committee to revise the license law, reported as follows :

MR. SPEAKER—Your Committee on the part of the House, to whom was referred Joint Resolution for a Committee of three from House and three from Council to revise the license act, beg leave to submit herewith "A Bill for an act entitled an act concerning licenses," as the report of the Committee.

J. B. WYLIE, *Chairman.*

Report received.

Mr. McMurtry reported as follows, from the Select Committee to whom was referred C. B. No. 19:

MR. SPEAKER—Your Select Committee, to whom was referred Council Bill No. 19, beg leave to report the same back to the House, with the following statement of facts, to wit:

The road proposes to traverse a district of country over which there is at the present time a good natural road, with the exception of an occasional hill or rise which would be the better for a grade. Also, that the charter proposes to bridge the Big Hole river at a point at or near a former chartered bridge location by F. H. Burn and James M. M. Minnesinger. The charter by which Burn & Co. acquired a right to build a bridge across the Big Hole river was granted by the Legislature of this Territory in February, 1865, and by the charter provisions, Burn & Co. obligated themselves to keep and maintain a bridge already across the said Big Hole river in "good order for the use and passage of wagons." The bridge was washed away the following spring after the granting of the charter, and from that time to the present there has been no bridge over the Big Hole river at that point, neither, as far as we can learn, has there been any effort made to construct a bridge at that point by Burn & Co. or any one else.

The road proposed to be chartered by George Roff & Co. is a very necessary one to all persons traveling from Deer Lodge and Missoula counties to Beaver Head county and Utah Territory, and *vice versa*; and the road without a bridge is worthless, and cannot

be traveled except at times during winter when the river is frozen.

With this statement of facts, we submit the bill to the careful consideration of the House.

Respectfully,

L. McMURTRY,

*Chairman of Select Committee.*

Mr. Rogers, from the Select Committee, to whom was referred H. B. No. 37, reported as follows, viz. :

MR. SPEAKER—Being one of a Special Committee, to whom was referred H. B. No. 37, and being unable to concur in the report of the chairman, and unwilling to endorse the ingenious language with which that gentleman urges the permanent location of the capital, and in which he pours out his argumentative soul in an endeavor to convince this assembly that Helena, (his own home), is the proper and only available place for said permanent location, I shall, therefore—not knowing the views and opinions, of the other member of the Committee—adopt the minority process, in order that my views may be clearly understood upon the subject.

I shall not presume to dictate to this body in regard to the place where the capital should be located, when it shall be submitted to the voice of the people to decide as to what point is, in their judgment, best; but I shall simply offer some reasons why I am opposed to the passage of the bill, and why I consider that it is unwise to legislate upon that question at present. We will admit that the kind of legislation that this bill proposes will be right and proper when our towns and cities shall have assumed a character of permanence and stability; but not now, when an influx of population into a town or village, in the course of one short month, may cause it to assume the noise, bustle, and general appearance of a great city, and an exodus of one week's duration, caused by the discovery of gold near by, may leave it stripped of its city robes and its metropolitan glory. The examples of the past should cause us to go careful and guarded for the future. Two years ago you could not have convinced a citizen of Montana that in so short a time a city would spring

up that would strip Virginia City of her laurels, both in point of wealth and population. Still such has been the case; and yet Helena, that has been thus prosperous, is subject to the very same influences that have borne down so heavily upon Virginia City. Who can divine that, in two years more, Helena will not yield her lustre and her glory to the little city of Argenta, where the proud old hills of Beaver Head are yielding their thousands of pounds of silver every week? Who, that will look into the future of Gallatin county, with her great and powerful agricultural interests, and her rich and fertile soil, does not look forward with a sense of pride to the time when she will present Montana with a city founded, not upon the uncertainties of gold and silver mines, but upon that great and inexhaustible source of wealth and permanency, agriculture?

I would, likewise, call attention to the gradual upward tendency of the wealth and the increase of population of the county of Deer Lodge. For the last twelve months Madison and Edgerton have lost many of their oldest and best citizens, who have, from good causes, chosen Deer Lodge as their home. And why should they not, for here all the varied interests of the Territory combine? There are within the boundaries of Deer Lodge county some of the best and richest gulch, placer and hill diggings of which Montana can boast. Here, too, are as rich lodes of gold, silver and copper, as the drill and pick were ever applied to. Her valleys are large, rich and productive; and her hills and valleys, for grazing, rival the blue grass pastures of Kentucky. My honest convictions are that five years from now Deer Lodge county will stand second to no other county in our great and growing Territory. Now, considering the undeveloped state of our Territory, and the changes to which the different sections must be at all times subject and liable, for at least three years to come, I consider it a palpable injustice, and an unwise act of legislation that will compel the citizens to locate their capital at either of the places mentioned in H. B. No. 37. When the capital was moved from Bannack to Virginia City, Virginia City was in a more prosperous condition than Helena now is. Another year may give Helena as gloomy a picture as Virginia City ever wore. Then, let us defer this act of legislation in order that a further development of the wealth of our country may give to each and every section an

opportunity to vindicate its right to the honor which H. B. No. 37 proposes to prematurely confer either upon Helena or Virginia City.

I must, then, in justice to myself, in justice to this honorable body, in justice to the citizens of each county, and in justice to the people at large of Montana, recommend that H. B. No. 37 be indefinitely postponed.

Most respectfully,

J. H. ROGERS.

Which report was laid on the table for further consideration.

Mr. Mimms, chairman of the Committee of the Whole, reported as follows, upon C. B. No. 11 :

MR. SPEAKER—The Committee of the Whole House, to whom was referred C. B. No. 11, " A Bill for an act concerning incorporations," have had the same under consideration, and ask leave, through their chairman, to report the bill back to the House, and recommend that the bill pass, with the following amendments, to wit :

Amend section 1 by striking out all after line 11 of said section.

Amend section 5, line 5, strike out the words " a majority."

Same section, line 6, after the word " and," insert the words " a majority."

Amend section 25 by striking out all of said section, and substituting the following :

"SECTION 25. All corporations already formed, or which may hereafter be formed under this act, for mining purposes, shall be governed by the mining laws of the district where the mine is located. *Provided*, that the amount of money so expended in incorporating said company, and the procuring of the necessary books for said corporation, shall be deemed in law as so much money expended in working said claim.

"SECTION 26. When any mining incorporation, holding or working any mine or mines in this Territory, shall disincorporate under the provisions of this act, the board of trustees of said corporation shall convey, by deed, to the stockholders of said com-



pany, all mines and other property of said corporation, in proportion to the amount of stock each stockholder shall hold in the mine or mines, and other property owned by said corporation, which deed shall be recorded in the office of the county recorder of the county in which the mine is located.

"SEC. 27. This act shall take effect from and after its passage."

All of which is respectfully submitted.

Mr. Van Hagan gave notice that he would introduce "An Act to confer certain powers on the sheriff of Edgerton county."

Mr. Gallaher introduced H. B. No. 55, "An Act to authorize B. F. Price, James L. Kirthley and Wm. H. Rodgers to construct a wagon road from Nevada City to Snake river."

Read first and second time, and referred to Committee on Incorporations.

Mr. Rogers introduced H. B. No. 56, "An Act to provide for the payment of jurors in the courts of Montana Territory."

Read first and second time, and referred to the Committee on Judiciary.

Mr. McMurtry introduced H. B. No. 57, "An Act to incorporate the Montana Stage Company."

Read first time, and Mr. Rogers moved that the bill be rejected.

Motion lost.

The bill was then read the second time.

A call of the House was ordered.

Roll called—Mr. McCullough absent.

Sergeant-at-Arms sent for Mr. McCullough.

Mr. Johnson in the chair.

Mr. McMannus moved that further proceedings under the call be dispensed with. Carried.

Mr. Mimms moved to lay the bill on the table. Lost.

Mr. Esler moved to refer the bill to the Committee of the Whole House, to be taken up in its regular order. Lost.

Mr. McMurtry moved to refer the bill to a Select Committee. Lost.

The bill was then referred to the Committee on Incorporations.

Mr. Mayhew moved that the House do now adjourn. Lost.

A call of the House was ordered.

Mr. Smith moved that further proceedings under the call be dispensed with, which motion was carried.

On motion of Mr. Roach, the House adjourned to 2 o'clock, P. M.

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#### AFTERNOON SESSION.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—Mr. Rhodes absent.

Mr. Donegan reported that House Bills Nos. 17 and 25, and H. J. R. No. 2, had been presented to the Governor for his approval at 12 o'clock, M., Nov. 30th, 1866.

Also, that H. B. No. 15 is correctly enrolled.

C. B. No. 15 was taken up, and Mr. Smith moved that the House do not recede from their amendments to C. B. No. 15, and the motion was adopted by the following vote:

Roll called.

Ayes—Messrs. Andrews, Blakely, Buck, Clanton, Esler, Galla-

her, Johnson, Jordan, McCullough, McMannus, McMurtry, Mimms, Roach, Rogers, Smith, and Van Hagan—16.

*Nays*—Messrs. Donegan, Wylie, and Mr. Speaker—3.

On motion of Mr. Smith, a Committee of Conference of two from the House and two from the Council, were appointed to confer upon C. B. No. 15.

Messrs. Smith and Rogers were appointed as such Committee on the part of the House.

C. B. No. 21, "An Act to amend an act defining the Council and Representative Districts of the Territory of Montana, and apportioning the members of the Legislative Assembly."

Read first and second time, and referred to the Committee on Judiciary.

C. B. No. 34, "An Act divorcing Frances McCormick from the bonds of matrimony contracted with Isom McCormick."

Read first and second time, and referred to the Committee on Judiciary.

H. B. No. 43, "An Act to incorporate the Virginia City and Nevada Ditching and Fluming Company."

The bill was read for information.

Mr. McCullough moved to amend the bill by striking out the word "exclusive," which motion was lost.

The bill was then read the third time, and passed by the following vote:

*Ayes* — Messrs. Andrews, Buck, Clanton, Esler, Gallaher, Johnson, Jordan, McMannus, McMurtry, Mimms, Roach, Rogers, Smith, Van Hagan, Wylie, and Mr. Speaker—16.

*Nays*—Messrs. Blakely, McCullough, and Rhodes—3.

Mr. Donegan was excused from voting.

The title of the bill was then agreed to.

Mr. Johnson moved that the House go into Committee of the Whole to consider all bills that have been referred to said Committee. Lost.

Mr. Wylie reported H. B. No. 58, "An Act concerning license," from a Joint Committee of the Council and House.

On motion of Mr. Mimms, the bill was read the first time by its title.

The bill was then read second time and referred to the Committee on Printing, and 50 copies ordered printed for the use of the House.

On motion of Mr. Johnson, the chairman of the Committee on Printing was instructed to have bills printed only on one side of the paper.

C. B. No. 11, "An Act for general incorporation," was taken up, and the report of the Committee of the Whole adopted.

The amendments, as reported by the Committee of the Whole, were adopted, and the bill, as amended, was adopted.

Mr. Rogers moved that the words "and residents of this Territory," be stricken out of line 3, section 5. Lost.

The rules were then suspended, on motion of Mr. Mimms, and the bill was read the third time by its title, and put upon its final passage.

Roll called.

Those voting in the affirmative, were—Messrs. Buck, Clanton, Donegan, Gallaher, Johnson, Jordan, McCullough, McMannus,

Mimms, Rhodes, Roach, Rogers, Smith, Van Hagan, Wylie, and Mr. Speaker—16.

Those voting in the negative, were—Messrs. Andrews, Blakely, Esler, and McMurtry—4.

Mr. Gorham absent.

And the bill passed.

The title was then agreed to.

C. B. No. 19 was referred to the Committee of the Whole, to be considered in its regular order.

On motion of Mr. Johnson, the House went into Committee of the Whole, to consider such bills as had been referred to said Committee.

Mr. Johnson in the chair.

House resumed its session. Mr. Speaker in the chair.

Mr. Rogers, from Committee on Engrossment, reported H. B. No. 19 correctly engrossed.

Mr. Donegan, chairman of Committee on Enrollment, reported that he had presented H. B. No. 15 to the Governor for his approval, at 2½ o'clock, this P. M.

Mr. Smith moved to adjourn to 10 o'clock, A. M., to-morrow. Lost.

Mr. Mimms moved to adjourn to 7 o'clock, this P. M. Lost.

Mr. Jordan moved to adjourn to 6½ o'clock, this P. M. Lost.

On motion of Mr. Esler, the House adjourned to 10 o'clock A. M., to-morrow.

A. E. MAYHEW,  
*Speaker.*

A. H. BARRET,  
*Chief Clerk.*

## TWENTY-SIXTH DAY.

DECEMBER 1, 1865.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—Messrs. Wylie, Andrews and Clanton absent.

Minutes of yesterday read and approved.

Mr. McMurtry presented a petition from the citizens of Deer Lodge.

The petition was laid on the table for further consideration.

Mr. McMurtry, chairman of the Committee on Judiciary, to whom was referred H. B. No. 56, reported as follows:

MR. SPEAKER—Your Committee on Judiciary, to whom was referred H. B. No. 56, beg leave to report the same back, with a recommendation that it do not pass.

Also, the following report upon H. B. No. 5:

MR. SPEAKER—Your Committee on Judiciary, to whom was referred H. B. No. 5, report the same back to the House, with the recommendation that it pass with the following amendments, to wit:

Section 1. By adding at the end of the section the words "subject to the vote of the people at the next general election."

Section 3. Insert the words "not otherwise contrary to law," in line 3, after the words "Missoula mills."

Mr. Donegan, chairman of the Committee on Enrollment, reported H. B. No. 24 correctly enrolled.

Report received.



Mr. McCullough reported as follows, upon H. B. No. 52 :

MR. SPEAKER—Your Committee on Incorporations, to whom was referred H. B. No. 52, beg leave to submit the following report :

We are of opinion that a good wagon road from Helena to Fort Benton is much needed, but we are informed that the proposed road as described in said bill would, for several miles, run over the line of the Mullen road. This being a road laid out and built by the general government, we would respectfully suggest this bill be so amended as not to interfere with this Mullen road before it be passed.

Report received.

Mr. McCullough reported as follows, upon C. B. No. 18 :

MR. SPEAKER—Your Committee on Incorporations, to whom was referred Council Bill No. 18, report the bill back to the House, with the recommendation that it pass after amending as follows :

In section 5, strike out all of line 15 ; strike out " 25 " and insert " 15."

Add section 7. " This bill may be modified or amended at any future session of the legislature."

Change section 7 to 8.

Also, as follows, upon C. B. No. 35 :

MR. SPEAKER—Your Select Committee, to whom was referred C. B. No. 35, respectfully beg leave to report this bill back to the House, with the suggestion, that it be amended by inserting section 2 as follows :

"Such officer or officers so failing to perform their official duties as required by law, may be indicted by the grand jury of the county in which the provisions of this act may be violated."

Also, section 3 :

"Any person or persons in any county of this Territory found guilty and convicted of a violation of the provisions of this act may be fined in any sum not to exceed one thousand dollars, or

imprisoned in the county jail not exceeding six months, or may be punished by both such fine and imprisonment."

Change section 2 to 4, and 3 to 5.

Report received, and Committee discharged.

Mr. Johnson, chairman of the Committee of the Whole, reported as follows, upon Council Bills Nos. 6, 19 and 29, and House Bills Nos. 31, 35 and 36:

MR. SPEAKER—The Committee of the Whole House having had under consideration House Bill No. 31, C. B. No. 29, H. B. No. 36, H. B. No. 35, C. B. No. 19, and C. B. No. 6, direct me to make the following report on the same:

That House Bill No. 31 be amended in section 2, line 2, by inserting the words "not exceeding 160 acres" after the words "of land."

And that the enacting clause be so amended as to read "Be it enacted by the Legislative Assembly of the Territory of Montana."

The Committee adopted the substitute of the Judiciary Committee for Council Bill No. 6, and recommend the adoption of the same by the House.

The Committee recommend that Council Bill No. 19 be referred to a Select Committee, with instructions to so amend the bill as to grant a charter for a bridge, and not for a toll road and bridge.

That House Bill No. 35 be amended so that section 1 will read as follows:

"Any person or persons, company or corporation, who shall hereafter make, dig or cause to be made or dug, any water ditch or other excavation for mining, farming, or any other purpose, across or near any public highway within this Territory, shall make or cause to be made a good and substantial bridge, enclosure or other adequate protection over or around the same, as soon as such ditch or excavation is made, and to keep the same in good repair at all times for the safe crossing of animals and wagons."

That the enacting clause be amended so as to read: "Be it

enacted by the Legislative Assembly of the Territory of Montana," and recommend that the bill do pass as amended.

That House Bill No. 36 be passed as amended by the Committee on Incorporations.

That House Bill No. 29 be amended as reported by the Committee on Incorporations, and passed as amended.

Respectfully submitted,

W. W. JOHNSON, *Chairman.*

Mr. Esler gave notice of "An Act granting the people of Beaver Head county the right to locate their county seat."

Mr. Smith gave notice that he would introduce "An Act for the relief of John W. Kerr."

Mr. Blakely gave notice that he would introduce "An Act changing the time of holding elections in Montana Territory."

Mr. Gallaher gave notice that he would introduce "An Act to authorize Samuel Weir and his associates to construct and maintain a toll bridge or ferry on the Madison river near the mouth of the same."

Mr. McMannus introduced H. B. No. 59, previous notice being given, "An Act to authorize John Lenan, his heirs, assigns and associates, to establish a ferry or bridge across the Hell Gate river."

Read the first and second time, and referred to the Committee on Incorporations.

Mr. Van Hagan introduced H. B. No. 60, previous notice being given, "An Act to confer certain powers on the sheriff of Edgerton county."

Read the first and second time, and referred to the Committee on Judiciary."

H. B. No. 19 was then taken up and read for information.

The rule was then suspended, and the bill read the third time by its title, and passed by the following vote:

Roll called.

*Ayes*—Messrs. Andrews, Blakely, Buck, Clanton, Esler, Gallaher, Johnson, Jordan, McCullough, McMannus, McMurtry, Mimms, Rhodes, Roach, Rogers, Smith, Van Hagan, and Mr. Speaker—18.

*Nay*—Mr. Donegan.

The following message was received from the Governor through his private secretary, Mr. Moore:

That he did, on the 30th day of November, 1866, sign and approve House Bill No. 17, entitled "An Act to invest religious, charitable and educational societies with certain powers of bodies corporate."

Also, House Bill No. 25, entitled "An Act to incorporate the Helena City Water Company."

Also, House Bill No. 15, entitled "An Act to incorporate the Missouri River Boom and Timber Company."

Also, Joint Resolution No. 2, "Asking Congress to amend the organic act."

Mr. Smith introduced the following resolution, which was adopted:

*Resolved*, That His Excellency the Governor be requested to return Joint Resolution No. 4 to this House.

H. B. No. 54 was read for information.

Mr. McMurtry moved to suspend the rules, read the bill the third time by its title, and put it upon its final passage.

H. B. No. 54, "An Act for the better observance of the Lord's day," was read the third by its title, and passed by the following vote:

*Ayes*—Messrs. Andrews, Blakely, Clanton, Donegan, Esler, Gallaher, Johnson, Jordan, Mimms, Rhodes, Roach, Smith, and Van Hagan—13.

*Nays*—Messrs. Buck, McMannus, McMurtry, Rogers, McCullough, and Mr. Speaker—6.

H. B. No. 34 was read, with the report from Committee on Mines and Minerals, for information.

The report was then adopted.

The amendments to the bill were then adopted, and the bill, as amended, was adopted and ordered engrossed.

The report of the Committee of the Whole on H. B. No. 36 was adopted.

On motion of Mr. Johnson, the amendments to the bill were adopted, and the bill, as amended, was adopted and ordered engrossed.

The following message was received from the Council through their Chief Clerk, Mr. Lovell:

That C. B. No. 1, "An Act to regulate and license foreign miners," was, on final vote, lost.

Also, that C. B. No. 30, being "An Act to incorporate the Fort Lemhi Wagon Road Company," has passed the Council.

Also, That H. B. No. 16, as amended by the Council, was passed, being "An Act to authorize Charles Francisco, and D. P. Abbot to construct a ferry across Sun river."

Also, That C. B. No. 40, being "An Act to authorize D. A. Floweree, Rufus Arich, their heirs, assigns and associates, to construct and maintain a bed rock flume in Dry Gulch, Edgerton county," has passed the Council.

Also, notices of the following bills:

Mr. Galloway—Of "A Bill for an act relating to water companies, and regulating the same."

Also, by Mr. Lowry—for "An Act authorizing A. Holmes and Luther M. Brown to establish a ferry across the Missouri river."

Also, the following bills, under previous notice, were introduced:

Mr. Galloway—C. B. No. 43, "An Act to repeal an act regulating the probate court of Deer Lodge county."

Bill read first and second time, rule suspended, bill read third time and passed.

Also, Mr. Orr introduced C. B. No. 44, "An Act in relation to mines and miners."

Also, Mr. Lowry—C. B. No. 48, "An Act to grant R. Hereford and others the right to establish a toll road in Lost Horse Gulch."

Mr. Brown introduced C. B. No. 46, "A Bill to authorize A. A. Brown, John Parr and A. G. Lee to construct and maintain a bed rock flume in Summit district, Ophir Gulch, in Deer Lodge county."

Also, that Mr. Moore introduced C. B. No. 47, being "An Act to divorce Thomas Caldwell and Miranda Caldwell from the bonds of matrimony."

Also, that C. B. No. 30, being "An Act to incorporate the Fort Lemhi Wagon Road Company," has passed the Council.

Mr. Rogers called up C. B. No. 18, "An Act to incorporate the Clark's Fork and Fort Benton Wagon Road Company."

Mr. Johnson moved that the report of the Committee on Incorporations on C. B. No. 18 be adopted. Carried.

Mr. McMannus moved that the words "twenty-five," in line 15, section 5, be stricken out, and the word "fifteen" be inserted, which motion was adopted.

The amendments were then adopted.

Mr. Andrews moved to amend section 1, line 1, by inserting after the name of "A. H. Barret," the name of "W. W. Johnson."

Motion lost.

Mr. Smith in the chair.

The bill was then adopted as amended.

The bill was then read the third time, and passed by the following vote:

Those voting in the affirmative, were—Messrs. Andrews, Donegan,



Esler, Gallaher, Jordan, McCullough, McMannus, Mimms, Rhodes, Roach, Rogers, Smith, and Mr. Speaker--13.

*Nay*—Mr. Johnson.

On motion of Mr. Johnson, the House adjourned to 2 o'clock, P. M.

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#### AFTERNOON SESSION.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—Quorum present.

H. B. No. 31 was taken up, and read for information.

The report of the Committee of the Whole was adopted.

The amendments, as offered by the Committee of the Whole, were adopted, and the bill, as amended, adopted and ordered engrossed.

Mr. Smith, chairman of the Committee on Engrossment, reported H. B. No. 34 as correctly engrossed.

H. B. No. 35 was taken up, and read for information.

The report was adopted.

The amendments were then adopted, and the bill, as amended, was adopted, and ordered engrossed.

C. B. No. 19, the report was rejected.

Mr. McMurtry offered the following amendment to section 4: Strike out "and road," and insert "two miles and a half," where it reads "one quarter," which was, on motion to adopt, lost.

Mr. McMurtry moved to suspend the rules, and read the bill the third time by its title, and put it upon its final passage. Lost.

The bill was then read the third time, and passed by the following vote:

Roll called.

*Ayes*—Messrs. Andrews, Blakely, Buck, Clanton, Donegan, Esler, Gallaher, Johnson, Jordan, McMannus, McMurtry, Rhodes, Roach, Rogers, Smith, Van Hagan, and Mr. Speaker—16.

*Nays*—Messrs. McCullough and Mimms—2.

And the title was agreed to.

The following message was received from the Council, by its Chief Clerk, Mr. Lovell:

MR. SPEAKER—I am directed by the Council to inform your honorable body that the accompanying amendments of the majority report of Committee of Conference on C. B. No. 15, have been adopted by Council, and made part of said bill.

Mr. Smith, chairman of the Committee of Conference on C. B. No. 15, "An Act entitled an act to provide for increased compensation for officers of this Territory, and for other persons," made the following report:

MR. SPEAKER—Your Committee of Conference, appointed to confer with a like Committee on the part of the Council, in relation to a disagreement on Council Bill No. 15, a bill for "An Act entitled an act providing for increased compensation of officers, etc.," have conferred, and, having taken action, would report:

That section 1 of said bill be stricken out.

That section 2 be substituted for section 1, and numbered "1" of said bill.

Amend section 1, after the words "a per diem compensation," as follows," so as to read: "To each member of the Legislative

Assembly, during his attendance at this session, the sum of ten dollars; to each of the chief clerks, the sum of ten dollars; to each of the assistant, engrossing and enrolling clerks, the sum of eight dollars; to each sergeant-at-arms, the sum of eight dollars; to each doorkeeper, the sum of eight dollars; to each fireman, the sum of fourteen dollars; to each page the sum of six dollars."

Strike out section 3.

Re-number section 4 and make it section 2 of said bill.

Amend section 2, in second line, after the word "section," by striking out the word "two," and insert, in its place, the word "one."

Make section 5 number section 3.

All of which is agreed to.

Mr. Rogers made the following minority report upon C. B. No. 15, to wit:

MR. SPEAKER—Being one of the Committee of Conference to whom was referred C. B. No. 15, and the amendments, as proposed by the House, I beg leave to submit the following report:

Doubting both the propriety and legality of the provisions of C.B. No. 15, I offer this, my humble remonstrance, not only to the bill itself, but to every amendment that has been or may be offered thereto. I consider it, in toto, an unwise act of legislation, that must reflect discreditably upon this Legislative Assembly, if it ever becomes a law.

Reports received.

Mr. Smith moved the adoption of the majority report, upon which motion the ayes and nays were demanded.

Roll called.

Those voting in the affirmative were—Messrs. Andrews, Blakeley, Buck, Clanton, Esler, Gallaher, Johnson, McMannus, McMurry, Smith, and Van Hagan—11.

Those voting in the negative were—Messrs. Jordan, McCulloch, Mimms, Rhodes, Roach, Rogers, and Mr. Speaker—7.

And the majority report was adopted.

On motion of Mr. Smith, the Committee was discharged.

Mr. Donegan reported that he had presented H. B. No. 24 to the Governor, for his approval, at 3 o'clock, P. M., Dec. 1, 1866.

Mr. McCullough moved to adjourn to 10 o'clock, A. M., on Monday. Lost.

H. B. No. 48 was referred to the Committee of the Whole, to be considered in its regular order.

On motion of Mr. Rogers, the House went into Committee of the Whole, to consider House Bills Nos. 13, 42 and 48.

Mr. Johnson in the chair.

House resumed its session.

The following message was received from the Council, through Mr. Lovell, its Chief Clerk:

Mr. Chiles, under previous notice, introduced C. B. No. 38, "An Act concerning penal bonds."

Mr. Phelps, by consent, introduced C. B. No. 39, "An Act to repeal section 32 of an act relative to elections."

Mr. Spratt, by consent, introduced C. B. No. 40, "An Act to authorize D. A. G. Floweree and others to construct and maintain a bed rock flume, in Dry Gulch, Edgerton county."

Mr. Galloway, by previous notice, introduced C. B. No. 41, "An Act to provide revenue, and collecting the same for territorial and county purposes."

Mr. Waterbury introduced Council Joint Memorial No. 3, "Asking appropriations from Congress of seventy-five thousand dollars to open the national road across the Bitter Root mountains."

Rules suspended, memorial read third time, and passed.

Mr. Lowry gave notice that he would introduce a bill for "An

Act granting R. Hereford, M. P. Lowry and Wm. Carter the right to establish a toll road in Lost Horse Gulch."

House Bill No. 39, being "An Act relative to district attorneys of the Territory," was indefinitely postponed by the Council.

Also, that C. B. No. 5, being "An Act to authorize Humphreys and Allison to construct a ditch, taking the water from Deer Lodge Creek," was indefinitely postponed.

Mr. Spratt, by consent, introduced C. B. No. 42, being "An Act entitled an act to regulate proceedings in courts of this Territory, passed April 12, 1866."

C. J. M. No. 2, "Asking appropriation from Congress," was amended by inserting "\$150,000," and by inserting "public buildings."

As amended, read a third time, and passed.

Also, Joint Memorial No. 1, "Asking Congress to increase pay of federal officers," has passed the Council.

On motion of Mr. McMannus, the House adjourned to 10 o'clock, Monday morning.

A. E. MAYHEW,  
*Speaker.*

A. H. BARRET,  
*Chief Clerk*

## TWENTY-EIGHTH DAY

DECEMBER 3, 1866.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—Members all present.

Minutes of Saturday read and approved.

Mr. Smith reported House Bills Nos. 31, 35 and 36 correctly engrossed.

Mr. Wylie, from the Committee on Incorporations, reported as follows:

MR. SPEAKER—Your Committee on Incorporations, to whom was referred H. B. No. 59, "An Act authorizing John Lenan, his heirs and assigns, to establish a bridge or ferry across the Hell Gate river, have had the same under consideration, and would recommend that it be passed, with the following amendments:

In section 3, line 12, strike out "2.00" and insert "1.50."

In line 14 strike out "1.00" and insert "50."

In line 15 strike out "1.00," and insert "50."

In line 16 strike out "50" and insert "25."

In line 18 strike out "40," and insert "20."

In line 19 strike out "40" and insert "20."

Add section 4, as follows:

"Any subsequent legislature shall have the power to alter, amend or repeal this franchise."

Make section 4 section 5.



Mr. McMurtry, chairman of the Committee on Judiciary, reported as follows:

MR. SPEAKER—Your Committee on Judiciary, to whom was referred C. B. No. 34, beg leave to report the same back to the House, and recommend that it pass with the following amendment:

Insert the word "McCormick" after the word "Isom," in the 4th line, 2nd section."

Also, as follows, on H. B. No. 60:

MR. SPEAKER—Your Committee on Judiciary, to whom was referred H. B. No. 60, beg leave to report the same back to the House, with the recommendation that it do pass.

Mr. Johnson reported as follows, from the Committee of the Whole:

MR. SPEAKER—The Committee of the Whole House have had under consideration House Bills Nos. 13, 42 and 48, and direct me to make the following report:

That House Bill No. 48 be amended by adding, as section 41, the following:

"SEC. 41. This act to take effect and be in force from and after its passage."

That H. B. No. 42 be reported back to the House, with the recommendation that it do pass.

That House Bill No. 13 be reported back to the House, with the recommendation that it do not pass.

Report received.

Mr. Mimms gave notice that he would, on to-morrow or some subsequent day, introduce a Joint Resolution in relation to the North Pacific Railroad."

Mr. McMurtry, by consent, introduced H. B. No. 61, "An Act to incorporate the Silver Bow Ditch Company."

Read first and second time, and referred to the Committee on Incorporations.

On motion of Mr. McMurtry, the petition of the citizens of Deer Lodge county, was taken from the table, and referred, with H. B. No. 61, to the Committee on Incorporations.

C. J. M. No. 2, "Praying Congress to appropriate one hundred and fifty thousand dollars to erect capitol buildings."

Read first and second time, and the rules suspended, read third time, and passed by the following vote :

*Ayes*—Messrs. Andrews, Blakely, Buck, Esler, Gorham, Johnson, Jordan, McMannus, McCullough, Mimms, Rhodes, Roach, Smith, Van Hagan, Wylie, and Mr. Speaker—16.

*Nay*—Mr. McMurtry.

C. J. M. No. 3, "Asking for an appropriation to re-open the national road across the Bitter Root mountains.

Read first and second time, and the following amendments were offered by Mr. Johnson, and adopted :

Section 2. Amend line 6 by striking out "two," and insert "one."

Amend line 10 by striking out "and," and insert "or."

Amend line 16 by striking out "forty," and insert "thirty."

Amend line 20 by striking out "forty," and insert "thirty."

Amend line 21 by striking out "forty," and insert "thirty."

Sections 4 and 5. Strike out \$75,000 wherever it occurs in said sections, and insert \$100,000.

Strike out at end of section 5, "We, your memorialists, will, as in duty bound, ever pray;" and insert as section 6 :

"We, your memorialists, would respectfully submit the name of W. W. De Lacy, of Virginia City, Montana Territory, as an engineer competent in every respect, to take charge of the repairs of said road, he having had an experience of four years upon the road referred to, and having thereby acquired an experience of the difficulties to be surmounted and an intimate knowledge of the route, such as will enable him to expend the labor upon the road at a much better advantage than any person not possessing this information."

The rules were then suspended, the memorial read the third time by its title, and passed by the following vote :

Those voting in the affirmative, were—Messrs. Andrews, Buck, Donegan, Esler, Gallaher, Gorham, Johnson, Jordan, McCullough, McMannus, McMurtry, Mimms, Rhodes, Roach, Van Hagan, Wylie, and Mr. Speaker—17.

*Nay*—Mr. Blakely.

C. B. No. 30, "An Act to incorporate the Lemhi and Big Hole River Wagon Road Company."

Read first and second time, and referred to the Committee on Incorporations.

C. B. No. 43, "An Act to repeal an act to regulate the probate courts of Deer Lodge county."

Read first and second time, and the rules suspended, bill read the third time by its title, and passed by the following vote:

Those voting in the affirmative were—Messrs. Andrews, Blakely, Buck, Esler, Gallaher, Gorham, Johnson, Jordan, McCullough, McMannus, McMurtry, Mimms, Rhodes, Roach, Wylie, and Mr. Speaker—16.

*Nays*—None.

C. B. No. 40, "An Act to authorize D. A. G. Floweree and Rufus E. Arick, their heirs, assigns and associates, to construct a bed rock flume in Dry Gulch, in Edgerton county."

Read first and second time, and referred to a Select Committee of four, composed of the Edgerton county delegation.

H. B. No. 16 was returned from the Council, with amendments.

The amendments were read for information.

The House refused to concur in the amendments, and ask the Council to recede from its amendments.

H. B. No. 31, "An Act to incorporate the Fairbanks Town Company," was read the third time, and put upon its final passage.

A call of the House was ordered.

Roll called — Messrs. McMannus, McMurtry, and Mimms absent.

The Sergeant-at-Arms was sent for the absentees.

Mr. Esler moved that further proceedings under the call be dispensed with. Lost.

Sergeant-at-Arms reported Messrs. McMannus, McMurtry, and Mimms, in their seats.

The bill was then passed by the following vote :

Roll called.

Those voting in the affirmative were—Messrs. Blakely, Buck, Clanton, Donegan, Esler, Gallaher, Gorham, McMannus, McMurtry, Mimms, Smith, and Van Hagan—12.

Those voting in the negative were—Messrs. Johnson, Jordan, McCullough, Rhodes, Roach, Rogers, Wylie, and Mr. Speaker—8.

The following communications were received from the Council, through their Chief Clerk, Mr. Lovell :

COUNCIL HALL, VIRGINIA CITY, }  
December 1, 1866. }

MR. SPEAKER—First petition, No. 2, from citizens of Gallatin county, praying for establishment of post routes and establishment of post offices, was read and referred.

Also, petition No.3, from citizens of Gallatin county, in regard to county seat. Read and referred.

Also, Mr. Spratt gave notice of "A Bill to incorporate the Passamari Canal Company."

Mr. Lowry, under previous notice, introduced C. B. No. 48, being a bill for "An Act to authorize Thos. A. Holmes and Luther M. Brown to establish a ferry across the Missouri river between the counties of Edgerton and Meagher."

Also, that C. B. No. 46, being "An Act to authorize A. A.

Brown, John Taze, A. G. Lee and others, to construct and maintain a bed rock flume in Summit district, in Ophir Gulch, in Deer Lodge county," has passed the Council.

Also, that C. B. No. 47, being "An Act to divorce from the bonds of matrimony, Thomas Caldwell and Miranda Caldwell," passed the Council.

Title agreed to.

Also, that House Joint Memorial No. 2 was laid on the table by the Council.

Also, that Council has concurred in House amendments to C. B. No. 11, as shown by special report hereto attached and presented with the bill.

Also, that H. B. No. 29, being "An Act to provide for the payment of costs by counties, etc," was, by the Council, laid on the table.

Respectfully,

WM. Y. LOVELL,

*Chief Clerk.*

COUNCIL HALL, VIRGINIA CITY, }  
December 1, 1866. }

MR. SPEAKER—I am directed by the Council to inform your honorable body, that the Council have concurred in each and all of the House amendments to Council Bill No. 15, being "An Act concerning incorporations," except amendment to strike out section 25, and substitute the section named in their report.

The Council ask the House to recede from said amendment, so that the original section 25 may stand.

Respectfully,

WM. Y. LOVELL,

*Chief Clerk.*

On motion of Mr. McMannus, the House adjourned to 2 o'clock  
P. M.

## AFTERNOON SESSION.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—Members all present.

H. B. No. 36, "An Act to incorporate the Madison Bridge Company," was read for information.

The bill was then read the third time, and put upon its final passage.

Roll called.

Those voting in the affirmative were—Messrs. Blakely, Donegan, Gallaher, Gorham, Johnson, Jordan, McCullough, McMannus, Mimms, Rhodes, Roach, and Mr. Speaker—12.

Those voting in the negative were—Messrs. Andrews, Buck, Clanton, Esler, McMurtry, Rogers, Smith, Van Hagan, and Wylie—9.

And the bill was passed, and the title agreed to.

H. B. No. 34, "An Act to authorize J. C. Kerley and W. H. Todd, their heirs and assigns, to construct and maintain a water ditch from Mammoth Gulch to Red Mountain City, in Deer Lodge county."

On motion of Mr. McMurtry, the rules were suspended, and the bill read the third time by its title, and put upon its final passage.

Roll called.

Those voting in the affirmative, were—Messrs. Buck, Clanton, Donegan, Esler, Gallaher, Gorham, Johnson, Jordan, McMannus,



McMurtry, Mimms, Rhodes, Roach, Rogers, Smith, Van Hagan, Wylie, and Mr. Speaker—18.

Those voting nay—None.

Absent—Messrs. Andrews, Blakely, and McCullough.

The title was agreed to.

H. B. No. 35, "An Act to secure persons, animals and wagons from damage arising from mining and other excavations."

Rule suspended, bill read the third time by its title, and put upon its final passage.

Roll called.

Those voting in the affirmative, were—Messrs. Buck, Donegan, Esler, Gorham, Johnson, Jordan, McMannus, McMurtry, Mimms, Rhodes, Roach, Rogers, Smith, Van Hagan, Wylie, and Mr. Speaker—16.

*Nays*—None.

And the title was agreed to.

H. B. No. 56, "An Act providing for the payment of jurors in the courts of Montana Territory."

On motion of Mr. Rogers, the report of the Committee on Judiciary was rejected.

Mr. Mimms in the chair.

The bill was then read for information.

On motion of Mr. McCullough, the rules were suspended, and the bill read the third time by its title, and placed upon its final passage.

A call of the House was ordered.

Roll called—Mr. Esler absent.

Sergeant-at-Arms sent for Mr. Esler.

Mr. McCullough moved that further proceedings under the call be dispensed with, which motion was lost.

On motion of Mr. Andrews, further proceedings under the call were dispensed with.

Mr. Donegan moved to adjourn to 10 o'clock, A. M., to-morrow. Lost.

The roll was then called upon the final passage of House Bill No. 56.

Those voting in the affirmative, were—Messrs. Buck, Donegan, Gallaher, Gorham, Johnson, Jordan, McCullough, McMannus, Mimms, Rhodes, Roach, and Rogers—12.

Those voting the negative, were—Messrs. Andrews, Blakely, Clanton, Esler, McMurtry, Smith, Van Hagan, Wylie, and Mr. Speaker—9.

The title was then agreed to.

On motion of Mr. Wylie, the House adjourned to 6½ o'clock, P. M.

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#### EVENING SESSION.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—Quorum present.

Messrs. Blakely, Esler and Gorham absent.

Mr. Mimms called up H. B. No. 48, "An Act concerning roads, highways, trails, etc."

Report of the Committee of the Whole adopted.

Amendments adopted, and the bill considered engrossed.

The bill was then read the third time by its title, and passed by the following vote :

Roll called.

*Ayes*—Messrs. Andrews, Buck, Clanton, Donegan, Gallaher, Gorham, Johnson, Jordan, McCullough, McMannus, McMurtry, Mimms, Rhodes, Roach, Rogers, Smith, Van Hagan, Wylie, and Mr. Speaker—19.

*Nays*—None.

The title was then agreed to.

H. B. No. 40 was, on motion of Mr. Wylie, taken from the table.

On motion of Mr. Wylie, the bill was amended so as to strike out the word "passage," and insert "first of June."

On motion of Mr. Mimms, the bill was then adopted as amended.

Mr. McMurtry moved to reconsider the vote.

Mr. Johnson moved to lay the motion to reconsider on the table. Carried.

The bill was then ordered engrossed, as amended, for a third reading.

The substitute, as reported by the Committee on Judiciary, for C. B. No. 6, "An Act concerning landlords and tenants," was adopted.

The substitute to C. B. No. 6 was then read the third time, and passed by the following vote :

Roll called.

*Ayes*—Messrs. Andrews, Buck, Clanton, Donegan, Gallaher, Gorham, Johnson, Jordan, McCullough, McMannus, McMurtry,

Mimms, Rhodes, Roach, Rogers, Smith, Van Hagan, Wylie, and Mr. Speaker—19.

*Nays*—None.

The title was then agreed to.

Mr. Donegan, chairman of Committee on Enrollment, reported House Joint Memorial correctly enrolled.

H. B. No. 5, "An Act to change the county seat of Missoula county, and legalize the acts of the county commissioners of said county."

Report of the Committee on Judiciary adopted.

Amendments adopted as reported, and the bill adopted as amended, and ordered engrossed, as amended, for a third reading.

H. B. No. 47, "An Act to incorporate the Helena City and Blackfoot City Wagon Road Company."

Report of the Committee on Incorporations adopted, and the amendments adopted as amended.

The bill was then adopted as amended, and ordered engrossed, with the amendments, for a third reading.

C. B. No. 46, "An Act to authorize A. A. Brown & Co. to construct and maintain a bed rock flume in Ophir Gulch, Deer Lodge county."

Read first and second time, and, on motion of Mr. Wylie, the rules were suspended, the bill read a third time by its title, and passed by the following vote:

Roll called.

*Ayes*—Messrs. Andrews, Buck, Donegan, Gallaher, Gorham, Johnson, Jordan, McCullough, McMannus, McMurtry, Mimms, Roach, Rogers, Smith, Van Hagan, Wylie, and Mr. Speaker—17.

*Nays*—Messrs. Clanton and Rhodes.

Title was then agreed to.

H. B. No. 52, "An Act to amend an act to incorporate the Little Prickly Pear Wagon Road Company."

On motion of Mr. Rogers, the bill was referred to a Select Committee of three, to consist of two from Edgerton county, and one from Meagher county.

The Speaker appointed Messrs. Clanton, Andrews, and Van Hagan, as such Committee.

H. B. No. 13, "An Act to authorize Edward W. Park to erect a bridge or maintain a ferry across the Bitter Root river."

The bill was read the third time and put upon its final passage, and lost by the following vote :

Roll called.

*Ayes*—Messrs. Clanton, Donegan, Gorham, Johnson, Jordan, McCullough, Rhodes, Roach, and Smith—9.

*Nays*—Messrs. Andrews, Buck, Gallaher, McMannus, McMurtry, Rogers, Van Hagan, Wylie, and Mr. Speaker—9.

Absent—Messrs. Blakely, Esler, and Mimms.

H. B. No. 29, "An Act entitled an act to authorize Owen Gilmore and M. P. Lowry to establish and maintain a ferry or toll bridge across Sun river."

The motion to adopt the amendments, as reported by the Committee on Incorporations, was lost, and the bill was read the third time, and put upon its final passage, and passed by the following vote :

Roll called.

*Ayes*—Messrs. Andrews, Buck, Donegan, Gorham, Johnson, Jordan, McMannus, McMurtry, Mimms, Rhodes, Roach, Rogers, Smith, Van Hagan, Wylie, and Mr. Speaker—16.

*Nays*—Messrs. Clanton and McCullough—2.

Absent—Messrs. Blakely, Esler, and Gallaher.

And the title was agreed to.

Mr. Smith in the chair.

C. B. No. 34, "An Act divorcing Frances McCormick from Isom McCormick," was read for information, with the report of the Committee on Judiciary.

The report was then adopted.

The amendment to the bill was adopted, and the bill, as amended, adopted.

The bill was then read the third time, and put upon its final passage, and lost by the following vote:

Roll called.

*Ayes*—Messrs. Andrews, Donegan, Johnson, McCullough, McMannus, McMurtry, Smith, and Van Hagan—8.

*Nays*—Messrs. Buck, Clanton, Gallaher, Gorham, Jordan, Mimms, Rhodes, Roach, Rogers, Wylie, and Mr. Speaker—11.

Messrs. Blakely and Esler absent.

On motion of Mr. McCullough, the House adjourned to 10 o'clock, A. M., to-morrow.

A. E. MAYHEW,  
*Speaker.*

A. H. BARRET,  
*Chief Clerk.*



## TWENTY-NINTH DAY.

DECEMBER 4, 1866.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—Quorum present.

Minutes of yesterday read and approved.

Mr. Blakely presented Petition No. 6, from the citizens of Galatin county.

On motion of Mr. Roach, the petition was laid on the table for further consideration.

Mr. Andrews, chairman of the Committee, reported H. B. No. 58 back, as being correctly printed.

Mr. Smith, chairman of the Committee on Engrossment, reported House Bills Nos. 5, 40 and 47 back to the House, as being correctly engrossed.

On motion of Mr. Mimms, H. B. No. 58 was referred to the Committee of the Whole, to be considered at 2½ o'clock, this P. M.

Mr. McCullough reported as follows, from the Committee on Incorporations, on H. B. No. 28 :

MR. SPEAKER—The Committee on Incorporations have examined H. B. No. 28, and report the same back to the House, and recommend its passage, after being amended as follows :

In section 1, line 1, after the word "one," insert the word "fourth."

Add the following to section 3: "*Provided*, that one toll gate shall be established on said road, to be located at least one mile from the corporate limits of Virginia City, or at any point on said road from there to Meadow Creek, but at no other point; provided, further, that the rights granted in this charter shall in nowise interfere with the present wagon road from Virginia City to Sterling City."

In section 4, line 5, strike out "2.00," and insert "one." Also, amend line 6 to read "25 cents." Also, strike out all of 8, 9 and 10.

Amend section 5, line 1, by striking out "three," and inserting "one."

Add, to same section, the following: "*Provided*, that the board of county commissioners of Madison county, at any time after one year from the completion of said road, upon the payment of the appraised value of said road to the incorporators, declare the same a county road."

Report received.

Mr. Mimms, chairman of the Select Committee on C. B. No. 40, made the following report, to wit:

MR. SPEAKER—The Select Committee, to whom was referred C. B. No. 40, "An Act to authorize D. A. G. Floweree and Rufus E. Arick, their heirs, assigns and associates, to construct and maintain a bed rock flume in Dry Gulch, in Edgerton county, M. T.," have had the same under consideration, and ask leave to report the same back to the House, with the opinion of the Committee thereon.

That said bed rock flume will, if thoroughly prosecuted, prove a great benefit to the mining in said gulch. That the provisions of the bill provide that nothing in the bill shall be so construed as to interfere with the rights of claim-holders along the line of said flume. That the purpose of the said bed rock flume is to take the tailings from the adjacent mining claims for the use of such tailings. That, in the opinion of the Committee, the privileges granted in the bill cannot be so construed as to abridge the rights

of miners on said gulch. Wherefore, your Committee respectfully recommend that the bill do pass.

Respectfully submitted.

R. W. MIMMS, *Chairman*.

Report received, and the Committee discharged.

Mr. McMurtry moved that the bill be read the third time by its title, and put upon its final passage. Carried.

Read the third time by its title, and passed by the following vote :

Roll called.

*Ayes*—Messrs. Andrews, Blakely, Buck, Donegan, Esler, Gallaher, Gorham, Jordan, Johnson, McMannus, McMurtry, Mimms, Smith, Wylie, and Mr. Speaker—15.

*Nays*—Messrs. Clanton, Rogers, and Van Hagan—3.

Mr. McCullough absent.

The title agreed to.

H. B. No. 62, introduced by Mr. Blakely, "An Act to authorize Fountain Donan to construct a bridge across Gallatin river."

Read first and second time, and referred to the Committee on Incorporations.

Mr. Blakely moved to take Petition No. 6, from the citizens of Gallatin county, from the table, and refer the same, with H. B. No. 62, to the Committee on Incorporations.

The House receded from their amendments to C. B. No. 11, as requested by the Council.

C. B. No. 45, "An Act granting to R. Hereford & Co. the right to establish and maintain a toll road in Lost Horse Gulch."

Read first and second time, and referred to the Committee on Incorporations.

C. B. No. 47, "An Act to dissolve the bonds of matrimony between Thomas Caldwell and Marinda Caldwell."

Read the first time, and, on motion, rejected.

C. B. No. 39, "A Bill for an act to repeal section 32 of an act in relation to elections."

Read first and second time, and referred to the Committee on Elections.

H. B. No. 40, "An Act to amend an act defining the duties of county treasurers, and the payment of county warrants," was read for information.

Mr. McMurtry moved that the bill be amended so as to strike out "the first of June," and insert "passage."

The ayes and nays called upon the amendment.

Those voting in the affirmative were—Messrs. Andrews, Blakeley, Buck, Esler, Gorham, McMannus, McMurtry, Wylie, and Mr. Speaker—9.

Those voting in the negative were—Messrs. Clanton, Donegan, Gallaher, Johnson, Jordan, McCullough, Mimms, Rhodes, Roach, Rogers, Smith, and Van Hagan—12.

And the motion was lost.

Mr. Jordan moved to adjourn. Lost.

Mr. McMurtry moved to suspend the rules, and read the bill the third time by its title, and put it upon its final passage. Carried.

The bill was then read the third time by its title, and passed by the following vote:

Roll called, H. B. No. 40:

Those voting in the affirmative were—Messrs. Andrews, Blakeley, Buck, Gallaher, Gorham, Johnson, Jordan, McMannus, McMurtry, Mimms, Rhodes, Wylie, and Mr. Speaker—13.

Those voting in the negative were—Messrs. Clanton, Donegan, Esler, McCullough, Roach, Rogers, Smith, and Van Hagan—8.

The title was agreed to.

The following message was received from the Council, through Mr. Lovell, its Chief Clerk:

Mr. Tuttle gave notice of a bill for "An Act to incorporate the Madison Valley Canal Company."

Also, that Mr. Lowry, with consent, introduced C. B. No. 49, being "An Act authorizing John H. Ming, J. L. Wood and J. A. Johnston to construct a toll road in Meagher and Choteau counties."

Also, that Mr. Wilson, with consent, introduced C. B. No. 50, being "An Act to incorporate Deep Creek Canal Company."

Mr. Orr, under previous notice, introduced C. B. No. 51, being "An Act in relation to estrays."

Also, that H. B. No. 30, being "An Act to incorporate the Brown's Gulch and Silver Bow Water Ditch Company," has passed the Council.

Also, that Council Bill No. 45, being "An Act authorizing Robert Hereford, M. P. Lowery and Wm. Carter to establish and maintain a toll road in Lost Horse Gulch," has passed the Council.

Also, that the Council has concurred in the House amendments to Council Bill No. 18, being "An Act to incorporate the Clark's Fork and Fort Benton Wagon Road Company."

Also, that Mr. Spratt, by consent, introduced C. B. No. 52, "An Act to incorporate the Passamari Canal Company."

Also, that C. B. No. 39, being a bill for "An Act to amend an act regulating the holding of elections in Montana Territory."

Also, that, by consent, Mr. Spratt, introduced "A Bill to divorce Martha A. Williams and Allen Williams from the bonds of matrimony."

Also, that House Joint Memorial No. 2, "Asking Congress to amend the Organic Act," was laid on the table.

Also, that C. B. No. 25 was indefinitely postponed.

On motion, the House adjourned to 2 o'clock, P. M.

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#### AFTERNOON SESSION.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—Quorum present.

H. B. No. 5, "An Act to change the county seat of Missoula county, and to legalize the acts of the county commissioners of said county," was read for information.

On motion of Mr. Johnson, the rule was suspended, and the bill read the third time, and put upon its final passage.

Roll called.

Those voting in the affirmative were—Messrs. Blakely, Buck, Donegan, Esler, Gorham, Johnson, Jordan, McCullough, McManus, McMurtry, Mimms, Rhodes, Roach, Rogers, Smith, Wylie, and Mr. Speaker—17.

Nays—None.

The following message was received from the Governor, through his private secretary, Mr. Moore :

That he had approved and signed H. B. No. 34, "An Act to authorize John Swartz, John Noys, and R. C. Clark, their heirs and assigns, to construct and maintain a water ditch from Deer Lodge creek to Butte and Rucker cities in Deer Lodge county."



H. B. No. 47, "An Act to incorporate the Helena City and Blackfoot City Wagon Road Company," was read for information.

Mr. McCullough moved to suspend the rules, and read the bill the third time by its title, and put it upon its final passage. Carried.

The bill was then read the third time by its title, and passed by the following vote :

Those voting in the affirmative, were—Messrs. Buck, Donegan, Esler, Gallaher, Gorham, Johnson, Jordan, McCullough, McMannus, McMurtry, Mimms, Rhodes, Roach, Rogers, Van Hagan, Wylie, and Mr. Speaker—17.

*Nays*—None.

Absent, Messrs. Blakely, Andrews, Clanton.

The title of the bill was then agreed to.

On motion of Mr. Johnson, the House went into Committee of the Whole, to consider H. B. Nos. 45 and 58.

Mr. Mimms in the chair.

House resumed. Mr. Speaker in the chair.

On motion of Mr. McCullough, the House adjourned to 6½ o'clock, this P. M.

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#### EVENING SESSION.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—Quorum present.

Absent—Messrs. Andrews, Clanton, Esler, Gallaher, and McCullough.

Mr. Mimms reported as follows, from the Committee of the Whole, upon H. B. Nos. 45 and 58. H. B. No. 45, "An Act to define the boundary lines of counties in Montana Territory, approved March 30, 1866":

MR. SPEAKER—The Committee of the Whole House, to whom was referred H. B. No. 45, and H. B. No. 58, have had the same under consideration, and have instructed their chairman to report H. B. No. 45 back to the House, with the recommendation that the bill be referred to a Select Committee of five.

Also, to report progress upon H. B. No. 58, and ask leave to sit again.

Report received, and adopted.

The Speaker appointed Messrs. Jordan, Buck, Van Hagan, Clanton, and McMurtry, as such committee.

Mr. Mimms moved that the House go into Committee of the Whole, to consider H. B. No. 58.

Motion carried.

Mr. Mimms in the chair.

House resumed. Mr. Speaker in the chair.

On motion of Mr. Roach, the House adjourned to 10 o'clock, to-morrow.

A. E. MAYHEW,  
*Speaker.*

A. H. BARRET,  
*Chief Clerk.*

## THIRTIETH DAY.

DECEMBER 5, 1866.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—Messrs. Donegan and Gallaher absent.

Mr. Wylie, from the Committee on Incorporations, reported as follows, on H. B. No. 61 :

MR. SPEAKER—Your Committee on Incorporations, having examined H. B. No. 61, beg leave to report the same back, and recommend its passage.

Also, as follows, upon H. B. No. 62 :

MR. SPEAKER—Your Committee on Incorporations, to whom was referred H. B. No. 62, have examined the same, and recommend its passage.

Also, on H. B. No. 53, as follows :

MR. SPEAKER—Your Committee on Incorporations, to whom was referred H. B. No. 53, have carefully examined the same, and would suggest the following section be added to the same :

“That any subsequent Legislative Assembly be authorized to amend, modify or annul this act.”

That section 5 be section 6.

That we believe the ferry or bridge asked for by this act will be a great convenience to the traveling public; and, therefore, would respectfully recommend its passage.

Also, on H. B. No. 49 :

MR. SPEAKER—Your Committee on Incorporations, to whom was referred H. B. No. 49, report this bill back to the House, and recommend it do not pass, for the following reasons :

*First.* The parties to whom this franchise was granted, of which this is amendatory, have failed within a reasonable time to comply with the wants and necessities of the traveling public.

*Second.* This kind of legislation would induce others to ask further time to comply with their contracts, and thereby prevent others from building bridges and ferry boats at an early day and at much reduced tolls.

*Third.* The rates of toll granted in most charters at the Ban-nack Legislature would be too high at this advanced stage of the country.

Also, as follows, on H. B. No. 55 :

MR. SPEAKER—Your Committee on Incorporations, to whom was referred H. B. No. 55, beg leave to report the same back to the House, and recommend its passage.

Also, as follows, upon C. B. No. 45 :

MR. SPEAKER—The Committee on Incorporations, to whom was referred C. B. No. 45, report the same back to the House, with the recommendation that it pass, after amending it as follows :

In section 2, line 9, strike out "2.00," and insert "1.00."

In same section, line 10, strike out "50," and insert "25 cents."

In line 11 strike out the word "or," and insert "and."

Strike out all of lines 12, 13 and 14.

Mr. Clanton, chairman of the Select Committee, to whom was referred H. B. No. 52, reported as follows :

MR. SPEAKER—Your Committee, to whom was referred House Bill No. 52, beg leave to report that they have examined said bill, and find that under the charter of which said bill is amendatory, that the incorporators, their heirs and assigns, mentioned in said original bill, have expended very large sums of money in discharge of, and in compliance with the obligations of the act hereby intended to be amended, and that they have completed a

wagon road over the entire line of the chartered road, making the same a great public thoroughfare by which freight has been reduced very greatly from Fort Benton to Helena City.

We further find, that the bill amendatory of the original bill does not propose to increase the toll on said road, but does propose to bind the said corporators of said road to build said road from its present termini to Helena City; one way on Fort Benton, the other without further toll, and further, forbidding the establishment of toll gates on the Mullen road but having the same open and free; and that by granting said extension of said original charter no possible injury can accrue to the public or any individual, but that great benefits must arise from the extension of the privilege and charter originally granted.

Your Committee respectfully report the accompanying bill and recommend its passage.

Report received.

Mr. Buck in the chair.

Mr. Andrews, previous notice being given, introduced H. B. No. 63, "An Act creating the office of Adjutant General, and to organize a militia force for the Territory of Montana."

Read first and second time, and referred to the Committee on Military Affairs.

Mr. Mimms introduced H. J. R. No. 3, "In relation to the North Pacific Railroad."

Read first and second time, and referred to the Committee on Printing, and 50 copies ordered printed.

Mr. Johnson introduced the following resolution:

*Resolved*, By the House of Representatives, that after next Tuesday, the 11th day of December, there shall be no new business introduced into this House without unanimous consent.

Mr. Esler moved to lay the resolution on the table. Lost.

On motion of Mr. Mayhew, the resolution was adopted.

H. B. No. 62. On motion of Mr. Blakely, the report was adopted.

And on motion of Mr. Blakely, the rules were suspended and the bill was read the third time by its title, and passed by the following vote :

Roll called.

Those voting in the affirmative were—Messrs. Blakely, Buck, Clanton, Donegan, Gallaher, Johnson, Jordan, McMannus, Mimms, Rhodes, Roach, Rogers, Smith, Van Hagan, Wylie, and Mr. Speaker—16.

Those voting in the negative were—Messrs. Andrews, Esler Gorham, and McMurtry—4.

Mr. McCullough absent.

The title was agreed to.

H. B. No. 55. The report upon said bill was adopted.

The bill was then read for information.

Mr. Mayhew moved to lay the bill upon the table for further consideration.

Motion was declared lost.

The decision of the Speaker was appealed from.

The chair was sustained.

On motion of Mr. Mimms, the following amendment was adopted :

Amend the bill by striking out "Snake river," wherever it occurs, and insert "the southern boundary of the Territory."

The bill was then adopted as amended, and ordered engrossed as amended for a third reading.

On motion of Mr. Mayhew, the vote by which H. J. R. No. 3 was ordered printed, was reconsidered, and the resolution laid on the table for further consideration.



H. B. No. 59, "An Act to authorize John Lenan, his associates and assigns, to construct a bridge or ferry on the Hell Gate river."

On motion of Mr. Andrews, the word "repeal" was stricken out of the report.

Mr. McMannus moved to amend the report by inserting the words "horse and rider, 75," and "pack animals, 50."

Which motion was adopted.

The bill was then adopted as amended, and ordered engrossed as amended for a third reading.

Mr. Mimms made the following report upon H. B. No. 58, from the Committee of the Whole:

MR. SPEAKER — The Committee of the Whole House, to whom was referred H. B. No. 58, have had the same under consideration, and instructed their chairman to report progress, and ask leave to sit again.

Report received.

Mr. Donegan, chairman of the Committee on Enrollment, reported that he had presented H. J. R. No. 1 to His Excellency the Governor, at 3 o'clock, P. M., December 4th, 1866, for his signature.

On motion of Mr. Andrews, the House adjourned to 2 o'clock, P. M.

## AFTERNOON SESSION.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—Quorum present.

On motion of Mr. Mimms, the House went into Committee of the Whole, to consider H. B. No. 58.

Mr. Mimms in the chair.

House resumed its session. Mr. Speaker in the chair.

Mr. Blakely moved to adjourn to 10 o'clock to-morrow morning.  
Lost.

On motion of Mr. Wylie, the House adjourned to 6½ o'clock,  
this P. M.

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## EVENING SESSION.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—Quorum present.

Mr. Mimms made the following report, from the Committee of the Whole, on House Bill No. 58 :

MR. SPEAKER—The Committee of the Whole House, to whom was referred H. B. No. 58, "An Act concerning license," have had the same under consideration, and have instructed their chairman to report progress and ask leave to sit again.

Report received.

Mr. Wylie moved to go into Committee of the Whole, to consider H. B. No. 58.

Motion carried.

Mr. Mimms in the chair.

The House resumed its session. Mr. Speaker in the chair.

On motion, the House adjourned to 10 A. M., to-morrow.

A. E. MAYHEW,

*Speaker.*

A. H. BARRET,

*Chief Clerk.*

## THIRTY-FIRST DAY.

DECEMBER 6, 1866.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—Quorum present.

Minutes of yesterday read and approved.

The following message was received from the Governor, through his Private Secretary, Mr. Barret :

That he did, on the 4th day of December, A. D. 1866, approve and sign H. J. R. No. 1, memorializing Congress, "Asking for appropriations for surveys, and the establishment of a Surveyor General's office, and also for a land office in Montana Territory."

Mr. McCullough, chairman of Committee on Incorporations reported as follows, upon H. B. No. 44 :

MR. SPEAKER—Your Committee on Incorporations, having carefully examined H. B. No. 44, report the same back to the House, and recommend it do not pass, as we are credibly informed that said road would run directly over a good natural road that is now in use by the traveling public.

Report received.

Also, as follows, on H. B. No. 51 :

MR. SPEAKER—Your Committee on Incorporations, to whom was referred H. B. No. 51, beg leave to report the same back to the House, and recommend its favorable consideration.

Mr. Smith, chairman of the Committee on Engrossment, reported H. B. No. 55 and H. B. No. 59 as correctly engrossed.

Mr. Andrews, chairman of the Committee on Elections, reported as follows, on C. B. No. 39 :

MR. SPEAKER—Your Committee on Elections, to whom was referred C. B. No. 39, beg leave to report that they have had the same under careful consideration, and find that the section which this bill proposes to repeal is entirely unnecessary, and imposes a duty on certain officers which is otherwise provided for.

Report received.

Mr. Mimms, chairman of the Committee of the Whole on H. B. No. 58, "An Act concerning license," made the following report, which was adopted :

MR. SPEAKER—The Committee of the Whole, to whom was referred H. B. No. 58, "An Act concerning license," have had the same under consideration, and have instructed their chairman to report the same back to the House, with the following amendments :

Section 1, line 8, strike out the word "four," and, in lieu thereof, insert "five."

Same section, line 9, "strike out "forty," and, in lieu thereof, insert "fifty."

Same section, line 20, after the word "month," and before the word "fourth," insert the following: "and all hurdy gurdy women or dancers shall be required to pay a license of ten dollars per month, or fifty cents per night."

Same section, line 35, strike out the word "forty," and insert, in lieu thereof, the word "sixteen."

Section 2, line 1, between the words "livery" and "stable," insert the words "and feed."

Same section, line 2, strike out the word "ten," and insert "fifteen."

Same section, line 6, strike out the word "five," and insert, in lieu thereof, "ten."

Same section, line 8, strike out the word "five," and insert the word "ten."

Section 3, amend line 23, fill blank with "seventy-five."

Same section, line 36, fill blank with "sixty."

Same section, line 43, fill blank with "forty-five."

Same section, line 48, fill blank with "thirty-five."

Section 4, line 11, fill blank with "sixty-five."

Same section, line 15, fill blank with "fifty."

Same section, line 23, fill blank with "forty."

Same section, line 29, fill blank with "thirty-five."

Section 5, line 28, strike out the word "ninety," and insert "fifty."

Same section, line 30, strike out the word "seventy," and insert, in lieu thereof, the word "forty."

Same section, line 33, strike out the word "fifty," and insert, in lieu thereof, the word "thirty."

Same section, line 35, strike out the words "thirty-five," and insert "twenty-two."

Same section, line 37, strike out the word "twenty," and insert "fifteen." Line 44, insert after the word "all," the words "in door." Line 47, after the word "month," insert the following: "and all auctioneers who shall sell upon the streets of any town in this Territory, goods, wares and merchandise, horses, mules and cattle, or other live stock, shall pay a license of fifty dollars per month."

Section 8, line 5, strike out "five," and insert "ten."

Amend section 9, strike out after the word "sale," in line 12, lines 13, 14, 15, 16, 17 and 18.

Amend section 10, line 5, between the words "sale" and "shall," insert the words "after the first of September of each year." Line 7, strike out "one dollar," and insert "fifty cents." Same line, strike out "fifty," and insert "twenty-five."

Same section, line 8, strike out the words "twenty-five," and insert the word "ten," and add the following to the section: "Such license shall be collected in the county where such stock is located."

Amend section 12, line 4, strike out the word "eight," and insert the word "ten."

Substitute the following, in lieu of section 13: "Every person who shall keep any banking game, or other game of chance, or gaming table wherein any money or representation of money is



used, bet or ventured at any game of chance or hazard not prohibited by the laws of this Territory, shall pay a license of fifty dollars per month for each house so kept."

Amend section 14, in line 2, strike out the word "ten," and insert the word "five."

Same section, last line, strike out the word "month," and insert the word "quarter."

And report progress.

All of which is respectfully submitted.

Report received, and adopted.

Mr. McMurtry introduced H. J. M. No. 4 without previous notice.

Read first and second time, and, on motion, the rules were suspended, the memorial read the third time, and passed by the following vote :

Those voting in the affirmative were—Messrs. Andrews, Blake-ly, Buck, Clanton, Donegan, Esler, Gallaher, Gorham, Johnson, Jordan, McMannus, McMurtry, Mimms, Rhodes, Roach, Smith, Van Hagan, Wylie, and Mr. Speaker—19.

*Nays*—None.

H. B. No. 55 was taken up, and, on motion, the rules were suspended, bill read the third time, and passed by the following vote :

Those voting in the affirmative were—Messrs. Andrews, Blakely, Buck, Donegan, Esler, Gallaher, Gorham, Johnson, Jordan, McMannus, McMurtry, Mimms, Rhodes, Roach, Rogers, Smith, Van Hagan, Wylie, and Mr. Speaker—19.

*Nay*—Mr. Clanton.

Title agreed to.

H. B. No. 59. Rule suspended, the bill read the third time by its title, and placed upon its final passage.

Those voting in the affirmative, were—Messrs. Andrews, Blakely, Buck, Clanton, Donegan, Esler, Gallaher, Gorham, John-

son, Jordan, McCullough, McMannus, McMurtry, Mimms, Rhodes, Roach, Rogers, Smith, Van Hagan, Wylie, and Mr. Speaker—21.

*Nays*—None.

Title agreed to.

H. B. No. 51, "An Act to incorporate the Legal Tender Tunneling Company," was read for information.

Mr. McMurtry moved to refer to the Committee on Internal Improvements. Carried.

H. B. No. 28, "An Act authorizing Samuel Bressler and associates to construct a toll road."

Report read, and adopted.

Amendments adopted, and the bill as amended adopted, and ordered engrossed, as amended, for third reading.

H. B. No. 42, "An Act to incorporate the Virginia City and Helena Telegraph Company."

On motion of Mr. McMannus, the rules were suspended, the bill read the third time by its title, and put upon its final passage.

Those voting in the affirmative were—Messrs. Buck, Donegan, Esler, Gallaher, Gorham, Johnson, Jordan, McMannus, Mimms, Roach, Rogers, Smith, Van Hagan, and Mr. Speaker—14.

Those voting in the negative were—Messrs. Andrews, Blakely, Clanton, McCullough, McMurtry, Rhodes, and Wylie—7.

The title was agreed to.

H. B. No. 58, "An Act to amend an act concerning license."

Mr. Mayhew moved to strike out the amendments to section 9, made by the Committee of the Whole. Carried.

Mr. Wylie offered the following, as a substitute for section 9, which was adopted:

"Every person who shall bring, or procure to be brought, into this Territory, one or more wagons, or one or more pack animals,

loaded with goods, wares, merchandise or provisions, or who shall bring, or procure to be brought, into this Territory, upon steamboats or water craft of any description, any goods, wares, merchandise or provisions, and shall sell or offer the same for sale, shall be deemed, for the purposes of this act, a transient merchant, and shall pay a license as follows: On the first one thousand dollars' worth of such goods, wares, merchandise or provisions, five dollars per month, and one-half of one per cent. on all sums in excess of one thousand dollars in value."

Mr. McMurtry offered the following amendment to section 11, which was adopted:

Strike out the words in lines 2 and 3, "or leave on sale, or leave on sale and storage or commission," and in 4 and 5, "or receiving the same on sale, commission, or storage and commission."

The bill was then adopted as amended, and ordered engrossed for third reading, as amended.

H. B. No. 52, "An Act to amend an act entitled an act to incorporate the Little Prickly Pear Wagon Road Company."

The substitute, as reported by the Select Committee, was adopted.

Mr. Mimms moved to refer to a Select Committee of three. Lost.

Mr. McMannus moved to adjourn to 2 o'clock, P. M. Lost.

On motion of Mr. Mimms, section 3 of the substitute was stricken out by the following vote:

Those voting in the affirmative were—Messrs. Andrews, Blakely, Buck, Esler, Gallaher, Johnson, Mimms, McCullough, Rogers, Smith, Van Hagan, Wylie, and Mr. Speaker—13.

Nays—Messrs. Clanton, Gorham, Jordan, McMannus, McMurtry, Rhodes, and Roach—7.

Mr. McCullough moved that the following amendments be adopted:

Add to section 2: "*Provided*, that this road shall not interfere in any wise with any road now traveled as a free road."

Mr. Esler moved that the vote by which section 3 was stricken from the bill be reconsidered; which motion was adopted.

On motion of Mr. Johnson, the word "ten," in last line, section 3, was stricken out, and the word "three" inserted.

Mr. Mayhew moved to suspend the rules, and read the bill the third time by its title, and put it upon its final passage. Lost.

On motion of Mr. McMannus, the House adjourned to 2 o'clock, P. M.

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#### AFTERNOON SESSION.

The House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—Quorum present.

Mr. Johnson offered the following amendment to section 4, which was adopted :

*"Provided*, that if the said corporators shall fulfill the obligations and conditions herein specified within twelve months from the passage of this act, it shall be in full force and effect."

On motion of Mr. Buck, the bill was adopted as amended, and ordered engrossed, for a third reading, as amended.

C. B. No. 39 was taken up, and, on motion of Mr. McCullough, the report was adopted.

On motion of Mr. Donegan, the rules were suspended, the bill read the third time by its title, and placed upon its final passage.

Roll called.

Those voting in the affirmative were—Messrs. Andrews, Buck, Clanton, Donegan, Esler, Gallaher, Jordan, Johnson, McMurtry, Mimms, Rhodes, Roach, and Rogers—13.

*Nays*—Messrs. Blakely, Gorham, McCullough, McMannus, Van Hagan, Wylie, and Mr. Speaker—7.

Title agreed to.

Mr. Rogers, chairman of the Committee on Internal Improvements, reported as follows, upon H. B. No. 51 :

MR. SPEAKER—Your Committee on Internal Improvements, to whom was referred H. B. No. 51, beg leave to submit the following report :

This body has spent much time in perfecting a general incorporation act, which has passed both Houses of the Legislature, and only lacks the signature of the Governor in order that it may become a law. Under the provision of that act, any company, such as H. B. No. 51 proposes to organize, can procure all the rights and privileges which we can lawfully confer upon such companies.

Section 4 asks this body to require the company to do certain work which the quartz law of the Territory does not require. We cannot pass a quartz law that will affect only one company, for such a law would work injustice somewhere.

Section 5 asks the exclusive privilege of 500 feet each way from the mouth of their tunnel. We cannot grant such a privilege without the repeal of certain mining laws which are now in force. Duty then compels your committee to recommend that H. B. No. 51 be indefinitely postponed.

Respectfully, J. H. ROGERS.

On motion of Mr. Rogers, the report was received and adopted.

H. B. No. 30, "An Act to incorporate the Brown's Gulch and Silver Bow Ditch Company."

The amendments by the Council were concurred in, and the bill ordered enrolled.

C. B. No. 35, "An Act in relation to officers failing to make reports as required by law," was, on suspension of the rules, read the third time by its title, and put upon its final passage, and passed by the following vote:

Roll called.

Those voting in the affirmative were—Messrs. Andrews, Buck, Clanton, Donegan, Esler, Gallaher, Gorham, Johnson, Jordan, McCullough, McMannus, McMurtry, Mimms, Rhodes, Roach, Rogers, Van Hagan, Wylie, and Mr. Speaker—19.

Nays—None.

Title agreed to.

H. B. No. 44, "An Act to authorize Lycurgus Orr to construct a wagon road."

On motion of Mr. McCullough, the bill was indefinitely postponed.

H. B. No. 46, "An Act concerning the collection of taxes in Choteau county."

On motion of Mr. McMurtry, the bill was indefinitely postponed.

H. B. No. 60, "An Act to confer certain powers on night watchmen of Helena City."

Report of the Committee on Judiciary was adopted.

On motion of Mr. Mimms, the bill was laid on the table for further consideration.

On motion of Mr. McCullough, the bill was taken from the table.

The bill was then read for information.

On motion of Mr. Van Hagan, the rules were suspended, the bill read the third time, and passed by the following vote:



Roll called.

Those voting in the affirmative were—Messrs. Andrews, Blakely, Buck, Donegan, Gallaher, Gorham, Johnson, Jordan, McMannus, McMurtry, Mimms, Rhodes, Roach, Rogers, Van Hagan, Wylie, and Mr. Speaker—17.

Title agreed to.

The following message was received from the Council, through their Chief Clerk, Mr. Lovell :

That C. B. No. 36, being "An Act to authorize Robert Tingley and John Kennedy and their associates to construct and maintain a toll road around the falls of the Missouri river," has passed the Council.

Also, that C. B. No. 48, "An Act to authorize F. A. Holmes and Luther M. Brown to establish a ferry across the Missouri river between the counties of Meagher and Edgerton," has passed the Council.

Also, that C. B. No. 7, being "An Act concerning fences," has passed the Council.

Mr. Phelps, with consent, introduced C. B. No. 54, "A Bill to incorporate the Grasshopper Creek Ditch and Mining Company."

Also, that Council refused to concur in House amendments to C. J. Memorial No. 3, and ask the House to recede from the same.

Also, that C. B. No. 23, being "An Act to incorporate the Beaver Head County Gold and Silver Mining and Manufacturing Company," has passed the Council.

Also, that C. B. No. 54, "An Act to incorporate the Grasshopper Creek Ditch and Mining Company," has passed the Council.

Respectfully,

Your ob't serv't,

WM. Y. LOVELL, *Chief Clerk.*

H. B. No. 49, "An Act to amend an act to incorporate the Montana Bridge and Ferry Company."

Report adopted.

On motion of Mr. Rogers, the rule was suspended, the bill was read the third time by its title, and put upon its final passage, and passed by the following vote:

Roll called.

Those voting in the affirmative were—Messrs. Andrews, Blakely, Buck, Clanton, Donegan, Gallaher, Gorham, Johnson, McMannus, McMurtry, Rhodes, Roach, Rogers, Van Hagan, and Wylie—15.

Those voting in the negative were—Messrs. Jordan, Mimms, and Mr. Speaker—3.

Title agreed to.

H. B. No. 61, "An Act to incorporate the Silver Bow Ditch Company."

Report adopted.

The bill was then read for information.

On motion of Mr. McMurtry, the rules were suspended, the bill read the third time by its title, and placed upon its final passage, and passed by the following vote:

Roll called.

Those voting in the affirmative were—Messrs. Andrews, Blakely, Clanton, Donegan, Gallaher, Gorham, Johnson, Jordan, McManus, McMurtry, Mimms, Rhodes, Roach, Rogers, Van Hagan, Wylie, and Mr. Speaker—17.

Nays—None.

And the title was agreed to.

H. B. No. 53. The word "annul" was stricken from the report, and report adopted.

The amendments were then adopted, and the bill as amended adopted and ordered engrossed as amended for the third reading.

C. B. No. 45 was taken up.

Report rejected.

And on suspension of the rules, the bill was read the third time, and placed upon its final passage, and passed by the following vote:

Roll called.

Those voting in the affirmative were—Messrs. Andrews, Blakely, Buck, Clanton, Gallaher, Gorham, McMannus, McMurtry, Mimms, Rhodes, Roach, Rogers, Van Hagan, Wylie, and Mr. Speaker—15.

Nays—Messrs. Johnson and Jordan—2.

Title agreed to.

A call of the House was ordered.

Roll called—absent, Messrs. Esler, McCullough and Smith.

Sergeant-at-Arms sent for absentees.

Sergeant-at-Arms reported Messrs. Esler, McCullough and Smith in their seats.

Mr. Johnson moved to adjourn. Motion lost.

H. B. No. 51, "An Act to incorporate the Legal Tender Tunneling Company."

On motion of Mr. Rogers, the bill was indefinitely postponed by the following vote:

Roll called.

Those voting in the affirmative were—Messrs. Blakely, Gorham, Johnson, Jordan, McMannus, McMurtry, Rhodes, Roach, Rogers, Van Hagan, and Wylie—11.

Those voting in the negative were—Messrs. Andrews, Buck, Clanton, Donegan, Esler, Gallaher, McCullough, Mimms, Smith, and Mr. Speaker—10.

Mr. McMannus gave notice that he would introduce "An Act authorizing John Owens, William McWhirk and James McMannus to construct a toll road from Missoula Mills to Fort Lemhi."

Mr. McCullough moved that the House recede from their amendments to Council Joint Memorial No. 3.

Which motion was adopted.

C. B. No. 23, "An Act to incorporate the Beaver Head County Gold and Silver Mining and Manufacturing Company."

Read the first time, and was, on motion, rejected.

H. B. No. 52 was read for information.

Mr. McMurtry moved to suspend the rules, read the bill the third time, and put it upon its final passage.

Motion adopted.

And the bill was read the third time by its title, and passed by the following vote :

Roll called.

Those voting in the affirmative were—Messrs. Andrews, Buck, Clanton, Donegan, Gallaher, Johnson, Gorham, McMannus, McMurtry, Rhodes, Rogers, Smith, Van Hagan, Wylie, and Mr. Speaker—15.

Those voting in the negative were—Messrs. Blakely, Esler, Jordan, McCullough, Mimms, and Roach—6.

Title agreed to.

Mr. McMannus moved to adjourn. Lost.

Mr. McCullough moved to adjourn. Carried.

A. E. MAYHEW,

*Speaker.*

A. H. BARRET,

*Chief Clerk.*

## THIRTY-SECOND DAY.

DECEMBER 7, 1866.

The House met pursuant to adjournment. Speaker Mayhew in the chair.

Roll called—Quorum present.

Mr. Blakely presented the petition of citizens of Gallatin county.

On motion of Mr. Buck, the petition was laid on the table for further consideration.

Mr. McCullough, chairman of the Committee on Incorporations, made the following report, upon H. B. No. 22 :

MR. SPEAKER—Your Committee on Incorporations, to whom was referred H. B. No. 22, have examined the same, and the bill having, by accident, been mislaid, we therefore offer a substitute, and respectfully recommend its passage.

Also as follows, upon H. B. No. 23 :

MR. SPEAKER—Your Committee on Incorporations, to whom was referred H. B. No. 23, report the same back, and recommend its passage.

Also, on C. B. No. 26 :

That said bill do not pass.

Mr. Smith, chairman of the Committee on Engrossment, reported H. B. Nos. 28 and 53 as correctly engrossed.

Mr. Donegan reported H. B. No. 30 as correctly enrolled.

Mr. Smith, from Committee on Incorporations, reported as follows, on C. B. No. 30:

MR. SPEAKER—Your Committee on Incorporations, to whom was referred C. B. No. 30, have examined the same, and recommend its passage, with the following amendment:

Amend 1st section, 1st line: after "J. B. Patton," insert "John Moore and James McEvelly."

Mr. Jordan, from a Select Committee, to whom was referred H. B. No. 45, reported as follows, on said bill:

MR. SPEAKER—The Select Committee, to whom was referred H. B. No. 45, have had the same under consideration, and find the following facts exist in relation thereto:

It would be great injustice to the inhabitants residing in the northern part of Madison county to be attached to Jefferson county, as the distance would be much less, and better road, to Virginia City, than it would be to the county seat of Jefferson county, saying nothing about the two ranges necessary to cross in going thereto.

On motion of Mr. Mimms, the bill, with the report, was re-committed to the Select Committee.

The following notices were given:

By Mr. Van Hagan—"An Act to define the boundary lines in this Territory."

By Mr. Blakely—"An Act to authorize J. J. Tomlinson to construct and maintain a ferry across the Yellowstone river."

By Mr. Gallaher—"An Act to repeal an act entitled an act to incorporate the Gallatin Town Company, approved February 2nd, 1865."

Also, "An Act to authorize J. A. Culver, L. H. Warren and their associates to establish and maintain a ferry across the Yellowstone river."

By Mr. Buck—"An Act for the purpose of changing and permanently locating the county seat of Jefferson county."



Mr. McCullough, previous notice being given, introduced H. B. No. 64, "An Act to regulate the fees of officers, jurors and witnesses."

Rule suspended, bill read the first and second time by its title, and laid on the table for further consideration.

Mr. Mimms, previous notice being given, introduced H. B. No. 65, "An Act to incorporate the town of Helena."

Read first and second time, and referred to a Select Committee of four, composed of the members from Edgerton county.

Mr. Gallaher, previous notice being given, introduced H. B. No. 66, "An Act to authorize Samuel Wier and his associates to construct a bridge or ferry on the Madison river."

Read first and second time, and referred to Committee on Incorporations.

Mr. McMurtry, with consent, introduced H. J. M. No. 5.

Read first and second time, and the rules were suspended, and the memorial read the third time, and passed by the following vote :

Those voting in the affirmative were — Messrs. Andrews, Blakely, Buck, Esler, Gallaher, Gorham, Johnson, Jordan, McCullough, McMannus, McMurtry, Mimms, Rhodes, Roach, Rogers, Smith, Van Hagan, and Wylie—18.

Mr. Speaker voted in the negative.

Mr. Buck, previous notice being given, introduced H. B. No. 67, "An Act to authorize Henry W. McFarland and associates to establish and maintain a ferry across the Missouri river."

Read first and second time, and referred to the Committee on Incorporations.

Mr. McCullough introduced the following resolution, which was adopted :

*Resolved*, By the the House of Representatives, that the printing of the minutes of the proceedings of this House be dispensed with, as they are not furnished the members by the printer until the journal of the previous day has been read.

Mr. McCullough introduced the following resolution, which was adopted :

*Resolved*, That a Select Committee of two be appointed, to act with a like Committee from the Council, to fill up the blanks in the bill regulating the fees of officers, jurors and witnesses of this Territory.

Messrs. McCullough and Buck were appointed as such Committee.

C. B. No. 7, "An Act concerning fences."

Read first time.

Mr. Rogers moved to reject. Motion lost.

Read second time.

On motion of Mr. McMannus, the bill was referred to a Select Committee of three. The chair appointed Messrs. Jordan, Blakely and Gallaher.

C. B. No. 36, "An Act to authorize Robt. Tingley and associates to construct a wagon road around the falls of the Missouri river."

Read first and second time, and referred to the Committee on Incorporations.

C. B. No. 48, "An Act to authorize S. A. Holmes and their associates to establish a ferry across the Missouri river."

Read first and second time, and referred to the Committee on Incorporations.

H. B. No. 28, "An Act to authorize Sam. Bresler and associates to construct a toll road to Sterling City, in Hot Springs district."

Read third time, and passed by the following vote :

Those voting in the affirmative were—Messrs. Blakely, Buck, Donegan, Gallaher, Johnson, Jordan, McCullough, McMannus, Mimms, Rhodes, Roach, Smith, and Mr. Speaker—13.

Those voting in the negative were—Messrs. Andrews, Clanton, Esler, Gorham, McMurtry, Rogers, Van Hagan, and Mr. Wylie—8.

H. B. No. 53, "An Act to authorize Henry Gassett and associates to construct and maintain a ferry or bridge across the Jefferson river."

Read third time, and passed by the following vote:

Those voting in the affirmative were—Messrs. Blakely, Buck, Clanton, Donegan, Gallaher, Gorham, Jordan, McCullough, McMannus, Rhodes, Roach, Rogers, Smith, Van Hagan, and Mr. Speaker—15.

Those voting in the negative were—Messrs. Esler, McMurtry, and Wylie—3.

Title agreed to.

Mr. Roach reported from the Select Committee, to whom was referred the condition of Choteau county, as follows:

MR. SPEAKER—Your Joint Committee, appointed to take into consideration the condition of Choteau county, having had the same under consideration, would respectfully submit the following as their report:

That Choteau county was organized, but through a willful disregard or negligence to comply with the law of this Territory, the proper opportunity was not given them to select their officers, to execute the law and to establish law and order; to collect revenue and maintain a proper county government; to contribute to the support of the territorial government, whose protection they claim. We, your Committee, would therefore recommend that in case of a failure of the consummation of the perfect organization of said county by the election or appointment of the proper officers to fill the various offices within said county,

on or before the 1st day of March next, 1867, that the Governor be requested to appoint an assessor and collector for said county, whose duty it shall be to assess and collect all revenue due the Territory from residents of that county, also their proper proportion of county tax belonging to this Territory.

M. ROACH.

Report received, and Committee discharged.

H. B. No. 23, "An Act to authorize L. H. Warren and associates to construct a ferry across Big Horn river."

On motion of Mr. Gallaher, the rules were suspended, the bill read the third time, and put upon its final passage.

Roll called.

Those voting in the affirmative were—Messrs. Blakely, Buck, Clanton, Donegan, Esler, Gallaher, Gorham, Johnson, Jordan, McCullough, McMannus, Rhodes, Roach, Rogers, Smith, Van Hagan, and Mr. Speaker—17.

Nays—Messrs. Andrews, McMurtry, Mimms, and Mr. Wylie—4.

Title agreed to.

H. B. No. 22, "An Act to authorize L. H. Warren, H. Gasset and James Sinclair to construct and maintain a ferry across Clark's fork of the Yellowstone river."

On motion of Mr. McCullough, the rules were suspended, the bill read the third time by its title, and put upon its final passage.

Read third time, and passed by the following vote:

Roll called.

Those voting in the affirmative were—Messrs. Blakely, Buck, Clanton, Donegan, Esler, Gallaher, Gorham, Johnson, Jordan, McCullough, Rhodes, Roach, Smith, and Mr. Speaker—14.

Those voting in the negative were—Messrs. Andrews, McMannus, Mimms, Rogers, Van Hagan, and Wylie—6.

Title agreed to.

On motion of Mr. McCullough, the vote by which C. B. No. 23 was rejected was reconsidered.

Read second time, and referred to the Committee on Incorporations.

On motion of Mr. Mayhew, the House adjourned to 2 o'clock, P. M.

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AFTERNOON SESSION.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—Quorum present.

Mr. Donegan, chairman of the Committee on Enrollment, made the following report:

That he had presented House Bill No. 30 to the Governor for his signature, at 11½ o'clock, December 7th, 1866.

Mr. Smith in the chair.

Mr. Donegan introduced House Joint Memorial No. 6, which was read first and second time, and referred to the Committee on Federal Relations.

Mr. Rogers introduced House Joint Memorial No. 7, "Asking for appropriations for a territorial prison," which was read first and second time, and, on motion, the rules were suspended, it was then read the third time, and passed.

*Ayes*—Messrs. Andrews, Blakely, Buck, Clanton, Donegan, Esler, Gallaher, Gorham, Johnson, Jordan, McCullough, McManus, Mimms, Rhodes, Roach, Rogers, Smith, Van Hagan, and Wylie—19.

*Nays*—None.

Title agreed to.

Council Bill No. 30 was then taken up.

On motion, the report of the Committee on Incorporations was adopted.

Mr. Donegan offered the following amendments :

Insert as section 6—

"SEC. 6. That any future Legislature may amend and modify this act."

Change section 6 to section 7.

Strike out the word "or," and insert "and," in section 3, where it says "horse or rider."

Which, on motion, was adopted.

The bill was then adopted, as amended.

Mr. McCullough moved to strike out all relating to pack animals, which motion was lost by the following vote :

*Ayes* — Messrs. Blakely, Gallaher, Gorham, McCullough, Mimms, Rhodes, and Rogers—7.

*Nays*—Messrs. Andrews, Buck, Clanton, Donegan, Esler, Johnson, Jordan, McMannus, Roach, Smith, and Van Hagan—11.

On motion, the rules were suspended, the bill was read the third time by its title, and passed by the following vote :

*Ayes*—Messrs. Andrews, Blakely, Buck, Clanton, Donegan, Esler, Gallaher, Gorham, Johnson, Jordan, McCullough, McMannus, Rhodes, Roach, Smith, and Van Hagan—16.

*Nays*—Messrs. Mimms and Rogers—2.

Council Bill No. 26 was then taken up.

Mr. McCullough moved to strike out section 2. Carried.

Change section 3 to section 2.

Read third time, and passed by the following vote:

Those voting in the affirmative were — Messrs. Andrews, Blakely, Buck, Clanton, Esler, Gallaher, Gorham, Johnson, Jordan, McCullough, McMannus, McMurtry, Smith, and Van Hagan—14.



*Nays*—Messrs. Rhodes, Roach, and Rogers—3.

Title agreed to.

The following message was received from the Council, through their Chief Clerk, Mr. Lovell :

C. B. No. 49, being "An Act authorizing John H. Ming, James L. Wood and J. A. Johnston to construct and maintain a toll road in Edgerton and Choteau counties," passed the Council.

Mr. Buck moved to adjourn. Lost.

Mr. Rogers offered a report, which was objected to.

Mr. Esler moved to adjourn. Carried.

A. E. MAYHEW,

*Speaker*

A. H. BARRET,

*Chief Clerk.*

## THIRTY-THIRD DAY.

DECEMBER 8, 1866.

The House met pursuant to adjournment. Speaker Mayhew in the chair.

Roll called—Quorum present.

Minutes of yesterday read and approved.

Mr. Van Hagan, chairman of the Committee on Military Affairs, reported as follows, on H. B. No. 63 :

MR. SPEAKER—Your Committee on Military Affairs, to whom was referred H. B. No. 63, beg leave to return the same, and recommend that it be considered in Committee of the Whole.

Report received.

Mr. Wylie, from Committee on Incorporations, reported as follows, upon H. B. No. 66 :

MR. SPEAKER—Your Committee on Incorporations, to whom was referred H. B. No. 66, have had the same under consideration, and would recommend it be passed, after being amended as follows :

In section 1, line 13, strike out "5," and insert " $2\frac{1}{2}$ ."

In section 3, strike out "2.50," and insert "2.00."

Add section 4, as follows :

"Any subsequent Legislature shall have the power to alter or amend this franchise."

Make section 4 section 5.

Report received.

Mr. Smith, chairman of the Committee on Engrossment, reported H. B. No. 58 correctly engrossed.

Mr. Wylie reported as follows, on C. B. No. 48 :

MR. SPEAKER—Your Committee on Incorporations, to whom was referred C. B. No. 48, have examined the same and herewith return it to the House, and recommend it to the careful consideration of the House.

Mr. Johnson gave notice of the introduction of the following bills :

“An Act providing for the funding of the debt of Montana Territory.”

Also, “An Act to authorize Edwin W. Park to build a bridge on the Bitter Root river.”

Mr. Jordan, of the Select Committee, to whom was referred H. B. No. 45, reported as follows :

MR. SPEAKER—The undersigned, as one of the Select Committee to whom was referred H. B. No. 45, submits the following report :

We have had the same under consideration, and find that we cannot agree as to any state of facts.

Report received, and the Committee discharged.

Mr. McMannus, previous notice being given, introduced H. B. No. 69, “An Act to incorporate the Missoula Mills and Fort Owen Wagon Road and Bridge Company.”

Read first and second time, and referred to Committee on Incorporations.

Mr. Rogers reported as follows, from the Committee on Federal Relations :

MR. SPEAKER—Your Committee on Federal Relations, to whom was referred H. J. M. No. 6, beg leave to submit the following :

We recommend that H. J. M. No. 6 pass, with the following amendments :

Strike out the first word on page two, and insert the word "and," in lieu thereof.

After the word "Territory," amend so that it will read "Helena City, Virginia City, Nevada City, Gallatin City, Bosman City, Deer Lodge City, and Bannack City."

Report received.

Mr. Van Hagan, previous notice being given, introduced House Bill No. 70, "An Act to define the boundary lines of counties in this Territory."

Read first and second time, and referred to the Committee on Towns and Counties.

Mr. Blakely, from the Select Committee, to whom was referred C. B. No. 7, reported back a substitute.

Mr. Rogers, with the consent of the House, introduced House Bill No. 71, "An Act to invest the St. Louis and Montana Mining Company with certain water privileges."

Read first and second time, and, on suspension of the rules, the bill was read the third time by its title, and placed upon its final passage.

Roll called.

Those voting in the affirmative were—Messrs. Blakely, Buck, Donegan, Esler, Gorham, Gallaher, Johnson, Jordan, McMannus, McMurtry, Mimms, Rhodes, Roach, Rogers, Smith, Van Hagan, Wylie, and Mr. Speaker—18.

*Nays*—None.

Title agreed to.

Mr. Smith, previous notice being given, introduced H. B. No. 72, "An Act for the relief of John W. Kerr."

Read first and second time, and referred to a Select Committee of three—Messrs. McMannus, McMurtry, and Rogers.

Mr. McMannus moved to reconsider the vote by which Mr. McCullough's resolution to dispense with the printing of the journal was adopted.

A call of the House was ordered.

Roll called — Messrs. Andrews, Clanton, and McCullough, absent.

On motion of Mr. McMurtry, further proceedings under the call was dispensed with.

On the motion to reconsider, the roll was called.

Those voting in the affirmative were—Messrs. Donegan, Galaher, Gorham, McMannus, Mimms, Rhodes, Roach, Rogers Smith, Van Hagan, and Mr. Speaker—11.

Those voting in the negative were—Messrs. Blakely, Buck, Esler, Johnson, Jordan, McMurtry, and Wylie—7.

And the motion prevailed.

On motion of Mr. Rogers, the resolution in relation to printing the journal daily, was indefinitely postponed.

On motion of Mr. Rogers, the chairman of the Committee on Printing, was instructed to inform the public printer that the journal must be delivered to the House by 10 o'clock each morning.

C. B. No. 54 was taken up and read the first and second time, and referred to the Committee on Incorporations.

C. B. No. 49 was read first and second time, and referred to the Committee on Incorporations.

Mr. Blakely, with consent, introduced H. B. No. 73, "An Act to authorize J. J. Tomlinson to construct a bridge or ferry across the Yellowstone river."

Read first and second time, and referred to Committee on Incorporations.

Mr. Smith in the chair.

On motion of Mr. Mayhew, H. B. No. 63 was referred to the Committee of the Whole, and made the special order for 2½ o'clock this P. M.

The report of the commissioners to settle with the late Territorial Auditor and Treasurer, was received and read.

Mr. Mimms moved to print 250 copies of the report for the use of the House.

Motion lost.

On motion of Mr. Mayhew, the report was referred to the Committee of the Whole, to be taken up in its regular order.

Mr. Mayhew moved to adjourn.

Motion lost.

H. J. M. No. 6. Report received.

Mr. Mayhew moved to lay the resolution on the table for further consideration.

Motion lost.

On motion of Mr. Rogers, Bannack City was inserted.

On motion of Mr. Buck, all was stricken out of the memorial but the cities of Virginia, Helena, and Deer Lodge.

The amendments were then adopted, and the memorial adopted as amended, and ordered engrossed for a third reading.

On motion of Mr. Blakely, the House adjourned to 2 o'clock, P. M.



## AFTERNOON SESSION.

House met pursuant to adjournment. Speaker Mayhew in the chair.

Roll called—Mr. McCullough absent.

Mr. Wylie reported as follows, upon C. B. No. 48, "An Act to authorize Thomas A. Holmes to construct a ferry across the Missouri river:"

MR. SPEAKER—Your Committee on Incorporations, to whom was referred C. B. No. 48, have examined the same, and beg leave to recommend it to the favorable consideration of the House.

On motion of Mr. Buck, the report was received and adopted.

Mr. Blakely, chairman of the Select Committee to whom was referred C. B. No. 7, reported the bill back to the House with a substitute.

Mr. McMurtry, chairman of the Committee on Judiciary, reported as follows, upon H. B. No. 68 :

MR. SPEAKER—Your Committee on Judiciary, to whom was referred House Bill No. 68, beg leave to report the same back to the House, with a recommendation that it do pass, with the following amendment :

In section 3, third line, insert the word "manner," after the word "like."

On motion of Mr. Johnson, the report was adopted, the bill considered engrossed, the rules were suspended, the bill read the third time by its title, and passed by the following vote :

Those voting in the affirmative were—Messrs. Andrews, Blakeley, Buck, Clanton, Donegan, Esler, Gallaher, Gorham, Johnson,

Jordan, McCullough, McMurtry, Rhodes, Roach, Rogers, Van Hagan, and Mr. Speaker—17.

*Nays*—None.

The title was agreed to.

The following message was received from the Council, through their Chief Clerk, Mr. Lovell :

Mr. Lowry gave notice of the introduction of a bill "Authorizing the people of Gallatin county to establish the county seat of Gallatin county."

Mr. Wilkinson introduced C. J. M. No. 4, "Asking an appropriation to the Northern Pacific Railroad."

Mr. Tuttle introduced C. B. No. 55, "Authorizing J. P. Henderson, etc., to construct a water ditch, etc."

Mr. Orr, by consent, introduced "An Act in relation to running horses in cities, towns and villages."

Mr. Moore, by consent, introduced C. B. No. 57, "An Act to incorporate the Red Mountain Lake Ditch Company."

Mr. Phelps, by consent, introduced C. B. No. 58, "An Act concerning the location of tunnels."

The Judiciary Committee, through their chairman, by consent, introduced C. B. No. 59, "An Act prohibiting the Territorial Treasurer and Auditor from issuing warrants without express provision of law, and for other purposes."

That C. B. No. 42, "A Bill for an act to amend an act entitled an act to regulate proceedings in civil cases in courts of this Territory, passed April 12, 1866," has passed the Council.

Also, that Joint House Memorial No. 4 was, by the Council, indefinitely postponed.

Also, that House substitute for Council Bill No. 6, being "An Act concerning landlord and tenants," was indefinitely postponed.

Mr. Wilkinson introduced C. B. No. 61, "An Act to establish a territorial road in Edgerton county."

Also, Mr. Lowry, by previous notice, introduced C. B. No. 60, "To authorize the people of Gallatin county to establish a county seat."

Also, that H. B. No. 49, "An Act to incorporate the Montana Bridge and Ferry Company," was rejected by the Council.

Also, that C. B. No. 59, "An Act to prohibit the Territorial Auditor issuing warrants without express provision of law, and for other purposes," has passed the Council.

Also, that C. B. No. 22, "An Act to provide for the support of the poor," has passed the Council.

On motion of Mr. McCullough, the substitute to C. B. No. 7 was read the third time by its title, and passed by the following vote :

Those voting in the affirmative were—Messrs. Andrews, Blakely, Buck, Donegan, Esler, Gallaher, Gorham, Jordan, McCullough, Rhodes, Roach, Smith, and Van Hagan—13.

Those voting in the negative were—Messrs. Clanton, Johnson, McMurtry, Rogers, and Mr. Speaker—5.

The title was agreed to.

The report on H. B. No. 66 was adopted.

The amendments were then adopted, and the bill adopted as amended, and ordered engrossed for a third reading.

On motion of Mr. McCullough, the report of the Select Committee, to whom was referred H. B. No. 45, was received, and the Committee discharged.

On motion of Mr. Johnson, the House went into Committee of the Whole, to consider H. B. No. 63, and the report of the Commissioners to settle with the Auditor and Treasurer.

Mr. Buck in the chair.

House resumed its session. Speaker Mayhew in the chair.

A call of the House was ordered.

On motion of Mr. Wylie, further proceedings under the call were dispensed with.

C. B. No. 42, "An Act to amend an act entitled an act to regulate proceedings in civil cases in the courts of justice in Montana Territory."

Read first and second time, and referred to the Committee on Judiciary.

Mr. Jordan, previous notice being given, introduced H. B. No. 74, "An Act to amend an act entitled an act to establish a common school system for the Territory of Montana."

Read first and second time, and referred to the Committee on Education.

The following message was received from the Council, through their Chief Clerk, Mr. Lovell:

MR. SPEAKER—I am instructed by the Council to return to the House C. B. No. 30 and C. B. No. 21, to have the amendments to said bills properly engrossed.

C. B. No. 22, "An Act to provide for the support of the poor."

Read first and second time, and referred to the Committee on Judiciary.

C. B. No. 59, "An Act prohibiting the Territorial Auditor from issuing warrants without express provisions of law, and for other purposes."

Read first and second time, and referred to the Committee on Judiciary.

The veto message of the Governor, on Council Bill No. 15, was taken up.

Mr. Van Hagan moved to lay the message on the table until 2 o'clock, P. M., on Monday, the 10th inst.

A call of the House was ordered.

On motion of Mr. Wylie, further proceedings under the call were dispensed with.

The vote was then taken upon the motion to lay the message on the table.

Roll called.

Those voting in the affirmative were—Messrs. Buck, Clanton, Esler, Gallaher, Johnson, McMannus, McMurtry, Smith and Van Hagan—9.

Those voting in the negative were—Messrs. Donegan, Gorham, Jordan, McCullough, Mimms, Rhodes, Roach, Rogers, Wylie, and Mr. Speaker—10.

And the motion was lost.

H. B. No. 58, "An Act entitled an act concerning license," was read the third time, and put upon its final passage.

Roll called.

Those voting in the affirmative were—Messrs. Blakely, Buck, Donegan, Esler, Gorham, Johnson, Jordan, McMannus, McMurtry, Mimms, Rhodes, Roach, Rogers, and Mr. Speaker—14.

Mr. Smith voting in the negative.

The title was then agreed to.

On motion of Mr. McMannus, the House adjourned to 10 o'clock, Monday morning.

A. E. MAYHEW,  
*Speaker.*

A. H. BARRET,  
*Chief Clerk.*

## THIRTY-FIFTH DAY.

DECEMBER 10, 1866.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—Quorum present.

Mr. Var Hagan made the following report on H. B. No. 70 :

MR. SPEAKER—Your Committee on Towns and Counties beg leave to make the following report on House Bill No. 70 :

We find the boundary lines of some of the counties, as they are now supposed to be, very vague and indefinite for all purposes of law and revenue. Your Committee believe that a large source of revenue is lost to the Territory for the want of easily defined boundaries to the various county officers in the discharge of their respective duties.

Your Committee, therefore, recommend that House Bill No. 70 do pass.

Report received.

The following message was received from the Council, through Mr. Lovell, its Chief Clerk :

That C. B. No. 15, being "An Act providing for increased compensation to the officers of the Territory, and other persons," was reconsidered by the Council, and passed, notwithstanding the Governor's objections, by a vote of 9 to 4, being a majority of two-thirds of the members of the Council.

Also, that Mr. Waterbury, by consent, introduced C. B. No. 63, being "An Act to authorize H. B. Truett and others to construct a bed rock flume in Edgerton county."

Also, that Mr. Phelps, by consent, introduced C. B. No. 64, being "An Act to amend an act to regulate proceedings in civil cases."



Also, that Messrs. Chiles and Galloway have been appointed a Committee on the part of the Council to confer with the House Committee to fill up blanks on the bill regulating fees of officers, etc."

Also, that C. J. M. No. 8, being an appropriation to A. Leich, and others, as commissioners, has passed the Council.

The Committee on Engrossment reported as follows :

That H. J. M. No. 6 was correctly engrossed.

Mr. McMurtry presented a petition from the citizens of Red Mountain City, in Highland Gulch.

On motion of Mr. McMurtry, the petition was laid on the table for further consideration.

The Committee on Incorporations made the following report, upon C. B. No. 36 :

MR. SPEAKER—Your Committee on Incorporations, to whom was referred C. B. No. 36, have examined the same, and would recommend it to the favorable consideration of the House, after adopting the following amendments :

In section 4, line 6, strike out the word "two," and insert "one."

In lines 7 and 8 strike out "seventy-five," and insert "fifty."

In line 12, strike out "one fifty," and insert "seventy-five."

In line 12, strike out "fifty," and insert "twenty-five."

In lines 13 and 14, strike out "twenty-five," and insert "ten."

Mr. Wylie made the following report, upon C. B. No. 49 :

MR. SPEAKER—Your Committee on Incorporations, to whom was referred C. B. No. 49, have examined the same, and would recommend that it do pass.

Mr. Wylie reported as follows, on C. B. No. 54 :

MR. SPEAKER—Your Committee on Incorporations, to whom was referred C. B. No. 54, have had the same under consideration, and would recommend its passage.

Report received.

Mr. Wylie reported as follows, on H. B. No. 67 :

MR. SPEAKER—Your Committee on Incorporations, to whom was referred House Bill No. 67, "To authorize H. McFarland, his heirs, assigns and associates, to maintain a ferry across the Missouri river," have examined the same, and would recommend it to the favorable consideration of the House.

Report received.

Mr. Wylie reported as follows, upon H. B. No. 73 :

MR. SPEAKER—Your Committee on Incorporations, to whom was referred House Bill No. 73, have had the same under consideration, and would recommend the following amendments :

In section 2, line 7, strike out "250," and insert "150."

In line 9, strike out "75," and insert "50."

In line 11, strike out "50," and insert "25."

In line 13, strike out "50," and insert "25."

Also, in section 1, line 13, strike out "five," and insert "two and a half."

Mr. McMurtry reported as follows, on C. B. No. 22 :

MR. SPEAKER—Your Committee on Judiciary, to whom was referred C. B. No. 22, beg leave to report the same back to the House, and recommend that it be indefinitely postponed.

Mr. McCullough, chairman of the Committee on Incorporations, reported as follows, on H. B. No. 69 :

MR. SPEAKER—Your Committee on Incorporations, having examined H. B. No. 69, report the same back, and respectfully recommend its passage, after amending the bill in section 4, line 4, by striking out the word "four," and inserting "one."

Report received.

Mr. McCullough, chairman of Committee on Incorporations, reported as follows, upon H. B. No. 57 :

MR. SPEAKER—Your Committee on Incorporations, to whom was referred House Bill No. 57, being "An Act to incorporate

the Montana Stage Company," have, with much care and deliberation, examined the same, and beg leave to report the same back to the House, with the following suggestions :

This bill proposes to incorporate a company, most of whom are non-residents, and empower the company to establish, maintain and operate any express, stage, passenger or transportation line by land or water for the conveyance of persons, mail or property, from and between any place or places in this Territory, and any place or places beyond the limits of the same.

A power of this kind extending beyond the limits of this Territory, in the opinion of your committee, could not, by this Legislature, be legally conferred.

Also, in section 1 of this bill, it is proposed to do a general banking business, out of, as well as in this Territory, and to conduct the business of the company beyond the limits of the Territory.

Your Committee are further of opinion, that the provisions of this bill do not make the incorporators individually liable to the amount of their stock, respectively, to the creditors of the company.

Also, this company could, at pleasure, change their corporate name and transfer their rights granted by this franchise, prior to completing any portion of the work and labor they would reasonably be expected to do should this franchise be granted.

Your Committee would further call attention to the fact, that this company propose to make roads, build bridges and ferry boats, and use the same, and collect tolls, without specifying the amounts of such tolls. Should the Legislative Assembly favorably consider this bill, we would respectfully recommend to so amend this bill as to require the company to transact their business within the limits of this Territory, and further, prevent a sale of the privileges granted, a change of name, and any transfer of the stock prior to investing one-fourth of the capital stock named in this bill in the Territory.

We would further recommend, that the tolls be designated, and the county commissioners or the Legislative Assembly have power to control said tolls.

Report received.

Mr. McCullough reported as follows, on C. B. No. 23 :

MR. SPEAKER—Your Committee on Incorporations, to whom was referred C. B. No. 23, beg leave to report the same back, with the recommendation that this bill be passed, after amending as follows :

Add to section 2 the following, to wit :

*"Provided, That all ditches, flumes and dams claimed and owned by this corporation, by virtue of this franchise, shall be located and worked on, in reasonable time and in good faith: provided further, the privileges herein granted shall apply exclusively to quartz mining."*

On motion of Mr. Smith, H. B. No. 64 was taken from the table and referred to a Select Committee of two from the Council and two from the House.

Reported back by Mr. McCullough, as follows :

MR. SPEAKER—The Select Committee, to whom was referred House Bill No. 64, "For the purpose of filling the blanks or fixing the fees of officers, jurors, and witnesses of the Territory," beg leave to report this bill back to the House, and earnestly recommend its passage without amendment, as the Joint Committee to whom this bill was referred have unanimously agreed upon the bill as submitted, and feel warranted in saying, the fees proposed in this bill, after making the reductions as appear in the bill, at the advanced worth of United States treasury notes at the present time, will not reduce the fees fixed by the Bannack Legislature.

Your Committee have carefully examined the fees of each officer, and made diligent inquiry as to his duties and labors, and do not hesitate in saying, the fees as proposed in H. B. No. 64 are equitable and just, both to officers and litigants, striking out all that class of fees so well known as constructive or illegal, thereby rendering plain the present list of fees, to parties litigant as well as to courts and attorneys.

Your Committee would respectfully suggest that, should this bill be amended to any great extent, it will certainly tend to defeat its passage at this session.

Respectfully submitted.

Mr. McMurtry gave notice that he would introduce "An Act entitled an act defining the boundary lines of the counties of Montana Territory."

The following message was received from the Governor:

EXECUTIVE OFFICE, }  
VIRGINIA CITY, M. T., Dec. 10, 1866. }

MR. SPEAKER—I inform your honorable body that I did, on the 7th inst., approve and sign House Bill No. 30, entitled "An Act to incorporate the Brown's Gulch and Silver Bow Water Ditch Company."

GREEN CLAY SMITH.

Mr. Johnson introduced H. B. No. 75, "An Act to authorize E. W. Park to erect a bridge across the Bitter Root river."

Read first and second time, rule suspended, bill read third time by its title, and placed upon its final passage.

Those voting in the affirmative were—Messrs. Gorham, Johnson, McCullough, McMurtry, Rhodes, Roach, Rogers, Van Hagan, Wylie, and Mr. Speaker—10.

Those voting in the negative were—Messrs. Blakely, Buck, Clanton, Esler, Gallaher, McMannus, Mimms, and Smith—8.

Mr. Gallaher introduced H. B. No. 76, "An Act to authorize J. A. Culver, L. H. Warren, and their associates, to keep a ferry across the Missouri river."

Read first and second time, and referred to the Committee on Incorporations.

Mr. Johnson introduced H. B. No. 77, previous notice being given, "An Act providing for the funding of the debt of Montana Territory."

Read first time.

Mr. McMurtry moved to reject the bill.

Motion lost.

Read second time.



Mr. Johnson moved to refer to the Committee on Printing, and have 50 copies ordered printed. Lost.

The bill was then referred to the Committee on Finance.

C. J. R. No. 8 was taken up.

Read first and second time, rule suspended, the bill read the third time, and passed by the following vote :

Those voting in the affirmative were—Messrs. Andrews, Blakely, Buck, Clanton, Donegan, Esler, Gallaher, Gorham, Johnson, Jordan, McCullough, McMannus, McMurtry, Mimms, Rhodes, Roach, Rogers, Smith, Wylie, and Mr. Speaker—20.

*Nays*—None.

Title agreed to.

C. B. No. 48, "An Act to authorize J. A. Holmes and others to construct the ferry across the Missouri river between the counties of Edgerton and Choteau."

Read third time, and passed by the following vote :

Those voting in the affirmative were—Messrs. Andrews, Blakely, Buck, Clanton, Donegan, Esler, Gallaher, Gorham, Jordan, McCullough, McMannus, Rhodes, Roach, Rogers, Smith, and Mr. Speaker—16.

Those voting in the negative were—Messrs. Johnson, Mimms, and Wylie—3.

The title was agreed to.

H. B. No. 66, "An Act to authorize Samuel Weir and associates to construct and maintain a ferry or bridge across the Madison river, near the mouth of the same."

Read the third time, and placed upon its final passage.

Roll called.

Those voting in the affirmative were—Messrs. Andrews, Blakely, Buck, Esler, Gallaher, Johnson, Jordan, McCullough, McMannus, Rhodes, Rogers, Van Hagan, and Mr. Speaker—13.

Those voting in the negative were—Messrs. Clanton, Donegan, Gorham, Mimms, Roach, and Wylie—6.

The title was then agreed to.

H. J. M. No. 6, "Asking the Postmaster General to establish a postal money order system in Montana."

Read third time, and placed upon its final passage.

Roll called.

Those voting in the affirmative were—Messrs. Andrews, Blakely, Buck, Clanton, Donegan, Gallaher, Gorham, Johnson, Jordan, McCullough, McMannus, Mimms, Rhodes, Roach, Rogers, Van Hagan, Wylie, and Mr. Speaker—18.

Mr. Esler voting in the negative.

The title was agreed to.

H. B. No. 64. Report was received, and the Committee was discharged.

On motion of Mr. Smith, the amendments were adopted.

The bill was then adopted as amended.

On motion of Mr. McMurtry, 50 copies of the bill were ordered printed, as amended, for the use of the House.

On motion of Mr. McMannus, the House adjourned to 2 o'clock, P. M.

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#### AFTERNOON SESSION.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—Quorum present.



C. B. No. 36 taken up, and the report adopted.

Amendments adopted.

The bill was then adopted, as amended.

The following message was received from the Council, through Mr. Lovell, their Chief Clerk :

SIR—I am directed by the Council to inform your honorable body, that House Bill No. 52 has this morning passed the Council.

C. B. No. 49. Read for information.

On motion of Mr. Wylie, the bill was read the third time by its title, and put upon its final passage.

Roll called.

Those voting in the affirmative were—Messrs. Buck, Clanton, Donegan, Esler, Gallaher, Gorham, Jordan, McCullough, McMurtry, Smith, Van Hagan, Wylie, and Mr. Speaker—13.

Those voting in the negative were—Messrs. Blakely, Mimms, Rhodes, and Roach—4.

The title was then agreed to.

C. B. No. 54, "A Bill for an act to incorporate the Grass-hopper Creek Ditch and Mining Company."

Mr. Esler moved to amend by striking out the name of C. D. Everett, and inserting "E. D. Leavitt." Adopted.

The rule was then suspended, and the bill read the third time, and passed by the following vote:

Those voting in the affirmative were — Messrs. Andrews, Blakely, Buck, Clanton, Donegan, Esler, Gallaher, Gorham, Johnson, Jordan, McMannus, McMurtry, Mimms, Rhodes, Roach, and Smith—16.

Those voting in the negative were—Messrs. McCullough, Van Hagan, Wylie, and Mr. Speaker—4.

The title was then agreed to.

On motion of Mr. McMurtry, H. B. No. 45 was laid on the table for further consideration.

H. B. No. 73, "An Act to authorize J. J. Tomlinson to construct a bridge or ferry across the Yellowstone river."

Report adopted.

Mr. Blakely moved to reject the amendments. Lost.

Rule suspended, the bill read the third time by its title, and passed by the following vote:

Roll called.

Those voting in the affirmative were—Messrs. Blakely, Buck, Donegan, Esler, Gallaher, Gorham, McCullough, McMurtry, Rhodes, Smith, Van Hagan, and Mr. Speaker—12.

Those voting in the negative were—Messrs. Andrews, Clanton, Johnson, Jordan, Mimms, Roach, and Wylie—7.

The title was then agreed to.

On motion of Mr. McMurtry, C. B. No. 22 was laid on the table for further consideration.

H. B. No. 67 was taken up, and the report adopted.

On motion of Mr. McCullough, the bill was read the third time by its title, and passed by the following vote:

Those voting in the affirmative were — Messrs. Andrews, Blakely, Buck, Donegan, Esler, Gallaher, Gorham, Jordan, McCullough, McMurtry, Rhodes, Roach, Rogers, Smith, Van Hagan, and Mr. Speaker—16.

Those voting in the negative were—Messrs. Clanton, Donegan, Mimms, and Wylie—4.

Title agreed to.

C. B. No. 23. Report adopted.

Amendments adopted, as reported by the Committee.

Bill adopted, as amended.

Mr. Rogers moved to strike out the word "manufacturing," in the 7th line, 1st section; and the words "fee simple," in the 22d line of same section. Lost.

On motion of Mr. Smith, the rule was suspended, the bill read the third time, and placed upon its final passage.

Roll called.

Those voting in the affirmative were—Messrs. Andrews, Blakely, Buck, Clanton, Donegan, Esler, Gorham, Jordan, McCullough, McMurtry, McMannus, Mimms, Rhodes, Roach, and Smith—15.

Those voting in the negative were—Messrs. Rogers, Wylie, Van Hagan, and Mr. Speaker—4.

The title was then agreed to.

Mr. Smith in the chair.

H. B. No. 70 was read for information.

On motion of Mr. McCullough, the bill was then read the third time by its title, and placed upon its final passage:

Roll called.

Those voting in the affirmative were—Messrs. Andrews, Buck, Esler, Gorham, Johnson, McMannus, McMurtry, Rhodes, Rogers, Smith, and Van Hagan—11.

Those voting in the negative were—Messrs. Blakely, Clanton, Donegan, Jordan, McCullough, Mimms, Roach, and Wylie—8.

The title was then agreed to.

H. B. No. 69. Report adopted.

Amendments adopted.

The bill adopted as amended, and, on motion, the Clerk was ordered to strike out the word "four," and insert the word "one."

The bill was then, on motion, considered engrossed, and read the third time, and passed by the following vote :

Roll called.

Those voting in the affirmative were—Messrs. Andrews, Buck, Clanton, Donegan, Gallaher, Gorham, Johnson, Jordan, McCullough, McMannus, McMurtry, Rhodes, Roach, Rogers, Smith, and Van Hagan—16.

Those voting in the negative were—Messrs. Blakely, Esler, and Mimms—3.

The title was then agreed to.

H. B. No. 63 was then taken up, and the report of the Committee adopted.

On motion of Mr. Buck, the rules were suspended, the bill read the third time, and placed upon its final passage, and lost by the following vote :

Roll called.

Those voting in the affirmative were—Messrs. Andrews, Johnson, McMannus, McMurtry, Smith, and Wylie—6.

Those voting in the negative were—Messrs. Blakely, Buck, Clanton, Donegan, Esler, Gallaher, Gorham, Jordan, McCullough, Mimms, Rhodes, Roach, Rogers, Van Hagan, and Mr. Speaker—15.

On motion of Mr. Van Hagan, H. B. No. 37 was taken from the table, and read for information.

On motion of Mr. McCullough, H. B. No. 37, "An Act to permanently locate the capital of this Territory," was referred to the Committee of the Whole, and made the special order for 6½ o'clock this P. M.

H. B. No. 57 was taken up, and, on motion of Mr. McMurtry, referred to a Select Committee of three.

Messrs. McMurtry, Van Hagan and Smith were appointed as such Committee.

The Committee on Enrollment, through Mr. Wylie, reported H. B. No. 52 as correctly enrolled.

Mr. McMannus gave notice that he would introduce "A Bill to incorporate the Prickly Pear and Dry Gulch Ditch Company."

Mr. Smith moved to adjourn to 6½ o'clock, P. M. Lost.

A call of the House was ordered.

Roll called—Messrs. Gallaher and Johnson absent.

On motion of Mr. Van Hagan, further proceedings under the call were dispensed with.

The House then adjourned to 6½ o'clock, P. M.

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#### EVENING SESSION.

The House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—Quorum present.

On motion of Mr. McCullough, the veto message on C. B. No. 15 was taken up, and upon the question being put—Shall the bill pass, notwithstanding the Governor's objections? the roll was called, with the following result:

Those voting in the affirmative were—Messrs. Andrews,

Blakely, Buck, Clanton, Esler, Gallaher, Johnson, McMannus, McMurtry, Smith, and Van Hagan—11.

Those voting in the negative were—Messrs. Donegan, Gorham, Jordan, McCullough, Mimms, Rhodes, Roach, Rogers, Wylie, and Mr. Speaker—10.

And the bill, not having received a two-thirds vote, was lost.

On motion of Mr. Johnson, the House went into Committee of the Whole, to consider H. B. No. 37.

Mr. McCullough in the chair.

House resumed its session. Speaker Mayhew in the chair.

Mr. McCullough was, on motion, granted until 10 o'clock, A. M. to-morrow, to report upon H. B. No. 37.

A call of the House was ordered.

Roll called—Messrs. Mimms and Esler absent.

Sergeant-at-Arms was ordered to bring in Messrs. Esler and Mimms.

On motion of Mr. Donegan, further proceedings under the call were dispensed with.

On motion of Mr. Smith, the House adjourned to 10 o'clock, Tuesday.

A. E. MAYHEW,  
*Speaker.*

A. H. BARRET,  
*Chief Clerk.*

## THIRTY-SIXTH DAY.

DECEMBER 11, 1866.

House met pursuant to adjournment. Speaker Mayhew in the chair.

Roll called—Members all present.

Minutes of yesterday read and approved.

Mr. McMurtry reported as follows, on C. B. No. 21:

MR. SPEAKER—Your Committee on Judiciary, to whom was referred Council Bill No. 21, beg leave to report the same back to the House, and recommend its passage, with the following amendments:

Amend section 3, so that it will read "nine representative districts."

Strike "and Choteau" from fourth representative district, and insert the word "and" between, previous to the word "Vivian."

And further add to section 3, after the apportioning of the eighth representative district, as follows:

"Ninth representative district, Choteau county, one member of the House of Representatives."

Mr. McMurtry reported as follows, on C. B. No. 59:

MR. SPEAKER—Your Committee on Judiciary, to whom was referred Council Bill No. 59, beg leave to report the same back to the House, with a recommendation that it pass, with the following amendments:

Strike out sections 3, 4, 5 and 6, and make section 7 section 3.



Report received.

Also as follows:

MR. SPEAKER—Your Committee on Judiciary, to whom was referred H. B. No. 41, report the same back for the consideration of the House.

Report received.

The following report was made by Mr. McCullough, chairman of the Committee of the Whole:

MR. SPEAKER—The Committee of the Whole, having had under consideration H. B. No. 37, instruct me, as chairman, to report the same back to the House, with the recommendation that it pass.

Report received.

Mr. McCullough reported as follows, on H. B. No. 75:

MR. SPEAKER—The Committee on Incorporations, after examining H. B. No. 75, report this bill back to the House, and recommend that it pass.

Mr. McCullough reported as follows, on H. B. No. 76:

MR. SPEAKER—Your Committee on Incorporations, to whom was referred H. B. No. 76, beg leave to report this bill back to the House, and would respectfully recommend its passage, after amending it as follows:

Add to section 1 the following words: "for the period of ten years."

In section 2, and line 1, after the word "commissioners," insert the words "of Gallatin county," after striking out all after the word "commissioners" in line 1 down to the word "may" in line 3.

In line 4, same section, change the word "rate" to "rates."

Insert section 3:

"SEC. 3. This act may be altered or amended at any subsequent session of the Legislature."

Change section 3 to 4.

Mr. Andrews, chairman of the Committee on Printing, reported as follows, on H. B. No. 64:

MR. SPEAKER—Your Committee on Printing, to whom was referred H. B. No. 64, direct me to report back the same, with printed copy, which is correct, with the exception of the omission of the word "of," in line 21, in section 1; and figure "8" in per diem fees of masters in chancery.

Respectfully submitted.

Report received.

Mr. Gorham, from the Committee on Finance, reported as follows, on H. B. No. 77:

MR. SPEAKER—The Committee on Finance, to whom was referred House Bill No. 77, recommend that it be amended as follows:

Insert after section 8, as section 9:

"SEC. 9. The Territorial Treasurer shall reserve and set aside twenty-five per cent. of all moneys received into the territorial treasury, for the purpose of meeting the payment of the interest accruing on the bonds issued; and all surplus remaining of the twenty-five per cent. so reserved, after the interest shall be paid, as hereinbefore provided, shall be set aside as a sinking fund for the reduction of the principal, as provided in section ten of this act."

Change section 9 to section 10.

Change section 10 to section 11.

And we recommend that the bill do pass, as amended.

Report received.

Mr. McMurtry reported upon H. B. No. 57:

MR. SPEAKER—Your Select Committee, to whom was referred House Bill No. 57, beg leave to report the same back to the House, with the following statement of facts, and recommendation of amendments:

The bill is one of universal and general interest to the people abroad, as well as to the citizens of the Territory of Montana, and if the provisions stated in the bill are performed and carried out in practice, it will not only be a great convenience to the people of this Territory, but will be of great pecuniary benefit to almost every legitimate branch of business known to trade and commerce.

The expenses of travel will be lightened. The now heavy express charges, as freight, upon gold and silver, the chief products of our Territory, will be reduced, and the time of travel and distance to the Atlantic States will be much shortened, and a new route will be opened to the public, which heretofore has been only a "local habitation and a name."

We would suggest the following amendments :

Strike from the bill section 12, and make section 13 section 12.

Also, insert the name of "A. S. Oliver" in the bill as one of the incorporators.

Report received.

Mr. McMannus introduced H. B. No. 78, "An Act to incorporate the Prickly Pear and Dry Gulch Ditch Company."

Read first and second time, and referred to the Committee on Incorporations.

Mr. Smith introduced H. B. No. 79, "An Act to incorporate the Montana Hydraulic and Mining Company."

Read the first and second time, and referred to the Committee on Incorporations.

Mr. Van Hagan introduced H. B. No. 80, "An Act to authorize D. A. G. Floweree to keep a ferry across the Missouri river."

Read first and second time, and referred to Committee on Incorporations.

Mr. McMurtry introduced H. B. No. 81, "An Act defining the boundary lines of Deer Lodge and Jefferson counties."

Read first and second time, and referred to Committee on Towns and Counties.

H. J. R. No. 4, introduced by Mr. McMurtry, was read first and second time, and laid on the table, to be taken up at 2 o'clock, P. M.

Mr. Smith, chairman of the Committee on Engrossment, reported Joint Resolution No. 4 as correctly engrossed.

C. B. No. 63. Read first and second time, and referred to a Select Committee of four, composed of the members of Edgerton county.

C. B. No. 36. Read for information.

Read third time by its title, and put upon its final passage.

Roll called.

Those voting in the affirmative were—Messrs. Andrews, Buck, Donegan, Esler, Gallaher, Johnson, McMannus, Mimms, Rogers, and Mr. Speaker—10.

Those voting in the negative were—Messrs. Clanton, Gorham, Jordan, McCullough, McMurtry, Roach, Smith, Van Hagan, and Wylie—9.

H. B. No. 37. Read for information.

Report adopted.

Mr. Wylie moved to strike out "Helena City," and insert "Deer Lodge City, in Deer Lodge county." Lost.

Mr. Rogers moved to insert "Deer Lodge City, Deer Lodge county." Lost.

Mr. McCullough moved to adjourn. Lost.

On motion of Mr. Mayhew, the House adjourned.

## AFTERNOON SESSION.

The House met pursuant to adjournment. Speaker Mayhew in the chair.

Roll called—Quorum present.

A call of the House was ordered.

Roll called—Absent, Messrs. Esler, Johnson and McCullough.

Sergeant-at-Arms sent for the absentees.

Sergeant-at-Arms reported the members all in their seats.

Roll called upon H. B. No. 37.

Those voting in the affirmative, were—Messrs. Andrews, Buck, Clanton, Esler, Gorham, Johnson, McMannus, Mimms, Rhodes, Smith, Van Hagan, and Wylie—12.

Those voting in the negative were—Messrs. Blakely, Donegan, Gallaher, Jordan, McCullough, McMurtry, Roach, Rogers, and Mr. Speaker—9.

The title was then agreed to.

H. B. No. 64 was, on motion, referred to the Committee of the Whole.

Mr. McMurtry presented a petition from the members of the bar of Deer Lodge county.

H. J. R. No. 4 was read for information.

Mr. Wylie moved to amend as follows: "and each assistant clerk, three hundred and twenty dollars."

Adopted.

Mr. McCullough moved to amend as follows :

Strike out all that portion allowing to each member three hundred and twenty dollars.

On motion of Mr. Wylie, the resolution was adopted, as amended, and ordered engrossed for a third reading.]

H. B. No. 77. Report adopted.

The amendments were then adopted, and the bill, as amended, adopted, and ordered engrossed for a third reading.

H. B. No. 57. Report adopted.

Amendments adopted.

Bill adopted, as amended, and ordered engrossed for a third reading.

H. B. No. 36. Amendments of the Council concurred in, and the bill ordered engrossed, as amended.

The following communication was received from A. H. Barret :

HOUSE OF REPRESENTATIVES, }  
Dec. 11, 1866. }

*Speaker of the House :*

SIR—I hereby resign my position as Chief Clerk of the House of Representatives of Montana Territory.

Respectfully,

A. H. BARRET.

Resignation was then accepted.

The House, on motion of Mr. McCullough, proceeded to the election of a Chief Clerk.

Mr. McCullough nominated Mr. Calhoun.

Mr. Johnson nominated Mr. Barret.

There being no further nominations, the House then proceeded to cast their votes, as follows :



Those voting for Mr. Calhoun were — Messrs. Andrews, Blakely, Buck, Clanton, McCullough, McMurtry, Van Hagan, Wylie, and Mr. Speaker—9.

Those voting for Mr. Barret were—Messrs. Donegan, Esler, Gallaher, Gorham, Johnson, Jordan, McMannus, Mimms, Rhodes, Roach, and Rogers—11.

And Mr. Barret was declared elected Chief Clerk of the House of Representatives.

On motion of Mr. Mimms, the House went into Committee of the Whole to consider H. B. No. 64.

Mr. Johnson in the chair.

The House resumed. Speaker Mayhew in the chair.

Mr. Johnson was granted until 10 o'clock, A. M., on Wednesday, to report, as chairman of the Committee of the Whole.

On motion of Mr. Wylie, C. B. No. 21 was taken up, and the report adopted.

The amendments were then adopted.

The bill, as amended, was then adopted.

On motion of Mr. McMurtry, the bill was amended so as to give the 4th Representative District three members of the House.

Adopted, as amended.

Read the third time, and passed.

Those voting in the affirmative were—Messrs. Andrews, Blakely, Buck, Clanton, Donegan, Esler, Johnson, Jordan, McCullough, McMurtry, Mimms, Rhodes, Roach, Rogers, Van Hagan, Wylie, and Mr. Speaker—17.

Mr. Gallaher voted in the negative.

Title agreed to.

C. B. No. 59 was taken up. Report adopted.

Amendments adopted.

Bill, as amended, adopted.

On motion of Mr. McMurtry, the rules were suspended, the bill read the third time by its title, and put upon its final passage.

The bill was then read the third time by its title, and passed by the following vote :

Those voting in the affirmative were—Messrs. Andrews, Blakeley, Buck, Clanton, Donegan, Esler, Gallaher, Gorham, Jordan, McCullough, McMurtry, Mimms, Rhodes, Roach, Rogers, Van Hagan, Wylie, and Mr. Speaker—18.

Mr. Johnson voted in the negative.

Mr. McMurtry moved to strike from the title “and for other purposes.” Motion carried.

The following message was received from the Council, through Mr. Lovell, its Chief Clerk :

That H. B. No. 23 has passed the Council.

Also, that H. B. No. 42 has passed the Council.

Also, that H. B. No. 53 has passed the Council.

Also, that H. B. No. 35 has passed the Council, with amendments.

H. B. No. 56 has passed.

C. B. No. 63 has passed.

H. B. No. 36 has passed, with accompanying amendments.

H. B. No. 61 has passed.

Mr. Johnson reported as follows, from the Committee of the Whole, on H. B. No. 64 :

MR. SPEAKER—The Committee of the Whole House, having had under consideration House Bill No. 64, direct me to report progress, and recommend that it be indefinitely postponed.

Also, having had under consideration the report of the committee appointed to examine the books and vouchers of the late Territorial Auditor, direct me to report the same back to the House, and recommend that it be laid upon the table for further consideration.

Report received.

The motion to adopt the report was lost.

Mr. Wylie, from Committee on Engrossment, reported that H. B. No. 52 was presented to the Governor for his approval, Monday, Dec. 11, at 4½ o'clock, P. M.

H. B. No. 41 was taken up, and, on motion of Mr. Mimms, the rules were suspended, the bill read the third time, and put upon its final passage.

Roll called.

Those voting in the affirmative were—Messrs. Gallaher, Jordan, McCullough, Mimms, Rhodes, and Wylie—6.

Those voting in the negative were—Messrs. Andrews, Blakely, Buck, Donegan, Esler, Gorham, Johnson, McMannus, McMurtry, Roach, Rogers, Smith, Van Hagan, and Mr. Speaker—14.

And the bill was lost.

The following message was received from the Council, by Mr. Lovell, their Chief Clerk:

December 11, 1866.

I am directed by the Council to return House Bill No. 16, for the reason that the Council are not asked to recede from their amendments to said bill.

Respectfully,

WM. Y. LOVELL, *Chief Clerk.*

H. B. No. 57 was read for information.

On motion of Mr. McCullough, the bill was then read the third time by its title, and placed upon its final passage.

Roll called.

Those voting in the affirmative were—Messrs. Andrews, Blake-ly, Buck, Esler, Gallaher, Gorham, Johnson, McMannus, McMurtry, Rogers, Smith, Wylie, and Mr. Speaker—13.

Those voting in the negative were—Messrs. Clanton, Donegan, Jordan, McCullough, Mimms, Rhodes, Roach, and Van Hagan—8.

And the title was agreed to.

On motion, the House adjourned to 10 o'clock on Wednesday.

A. E. MAYHEW,

*Speaker.*

A. H. BARRET,

*Chief Clerk.*

## THIRTY-SEVENTH DAY.

DECEMBER 12, 1866.

House met pursuant to adjournment.

Roll called—Quorum present.

Minutes of yesterday read and approved.

Mr. Donegan, from Committee on Enrollment, reported as follows :

MR. SPEAKER—Your Committee on Enrollment, beg leave to report that they have examined House Bills Nos. 53, 23, and 61, and find them correctly enrolled.

Report received.

Mr. Smith, from Committee on Engrossment, reported as follows :

MR. SPEAKER — Your Committee on Engrossment have examined House Bill No. 77, and find the same correctly engrossed.

Report received.

Mr. Van Hagan, chairman of Committee on Towns and Counties, reported as follows :

MR. SPEAKER—Your Committee on Towns and Counties, beg leave to make the following report on House Bill No. 81 :

Your Committee have examined this bill and report it back to the House, and recommend the passage of H. B. No. 81.

Report received.

Mr. Smith, from Committee on Incorporations, reported as follows:

MR. SPEAKER—Your Committee on Incorporations, to whom was referred H. B. No. 79, beg leave to report the same back, and recommend its passage.

Report received.

Mr. McCullough reported as follows:

MR. SPEAKER—Your Committee on Incorporations, report H. B. No. 80 back to the House, and recommend its passage after amending as follows, to wit:

In section 1, line 13, strike out the word "fifteen," and insert "eight."

Also, in line 23, strike out the word "four," and insert "\$3."

In line 24, after the word "additional," insert the word "span."

In line 27, strike out the word "three," and insert "\$2."

In section 3, strike out all after the word "collected," in line 4.

In section 4, line 7, change the word "forfeit," to "forfeited."

Also, in line 9, strike out the word "general."

Strike out all of the section after the word "of," in line 12, and insert as follows: "Persons owning public ferries in the Territory.

Mr. McCullough reported as follows, upon H. B. No. 78:

MR. SPEAKER—Your Committee on Incorporations, to whom was referred H. B. No. 78, report the same back to the House, with the following suggestions:

The stream tapped by this ditch does not contain as much water as this company propose to take out, neither does this bill fix any starting point, hence it would be a difficult matter to amend this act, not knowing at what point the water should be taken from the Prickly Pear river. But your Committee are of opinion, this franchise could, if granted, do no injury.

Report received.

Mr. McMurtry made the following report on C. B. No. 42 :

MR. SPEAKER—Your Committee on Judiciary, to whom was referred Council Bill No. 42, beg leave to report the same back to the House, and recommend its passage, with the following amendments :

Strike out section 21, and insert the following :

"SEC. 21. The attachment may be dissolved on motion made in behalf of the defendant at term time, or in vacation. If made in vacation, upon giving plaintiff five days previous notice in the following cases :

"First. When the bond or affidavit on which the same was founded shall be adjudged by the court, or judge, in vacation, or by the probate judge, as aforesaid, insufficient. If the court or judge hearing the same shall dissolve the attachment, the sheriff shall deliver all property attached remaining in his hands, and all moneys collected by him by virtue of the attachment of the defendant, and the sureties of the plaintiff shall be liable to the defendant for all damages he may have sustained by the issuing of the attachment, not exceeding the amount stated in the plaintiff's undertaking."

Strike from section 24 the remaining part of the section after the word "attachment," in the fourth and fifth line from the bottom of the section.

Strike out section 14.

Make section 15 section 14, section 16 section 15, section 17 section 16, section 18 section 17, section 19 section 18, section 20 section 19, section 21 section 20, section 22 section 21, section 23 section 22, section 24 section 23, section 25 section 24, section 26 section 25, section 27 section 26.

LOUIS McMURTRY, *Chairman.*

Mr. Van Hagan reported as follows :

MR. SPEAKER—Your Special Committee on Council Bill No. 63, beg leave to make the following report :

We find that the incorporators of this bill have a deed from the claim-holders for the right of way, and that this bill cannot interfere with the vested rights of miners of Last Chance Gulch.



We, therefore, recommend the passage of Council Bill No. 63  
Report received.

Mr. McMannus, chairman of the Select Committee, to whom was referred H. B. No. 72, made the following report :

MR. SPEAKER—Your Select Committee, to whom was referred House Bill No. 72, beg leave to submit the following :

We have had the bill under consideration, and have had a statement of the facts presented to us in regard to the circumstances under which Mr. Kerr expended the money asked for in the bill. We sincerely sympathize with the gentleman for whom the appropriation is asked, but cannot feel ourselves warranted in recommending the passage of the bill.

We would, therefore, recommend the bill to the careful consideration of the House, feeling that a multitude of council is due to the consideration of so important a subject.

P. McMANNUS, *Chairman.*

J. H. ROGERS.

Report received.

The following message was received from the Council, through Mr. Lovell, their Chief Clerk :

December 10, 1866.

That House Bill No. 56, " An Act providing for the payment of jurors in Montana Territory," has passed the Council.

Also, that House Bill No. 36, " An Act to incorporate the Madison Bridge Company," has passed the Council.

Also, that Council Bill No. 64, being "An Act to authorize C. D. Leutsenheiser and others to establish a ferry in Meagher county," has passed the Council.

Also, that H. B. No. 23, " An Act to authorize L. H. Warren and others to construct a ferry over Big Horn river," has passed the Council.

Also, that C. B. No. 63, " An Act to authorize H. P. Truet and others to construct a bed rock flume in Last Chance Gulch, Edgerton county," was passed.

Also, that Mr. Spratt introduced C. B. No. 65, "In relation to the change of venue in civil and criminal cases."

Also, that H. B. No. 53, "An Act to authorize H. Gassett and J. Sinclair to construct a ferry or bridge across the Jefferson river," has passed.

Also, that H. B. No. 54, "An Act for the better observance of the Lord's day," was passed.

WM. Y. LOVELL,  
*Chief Clerk.*

The following message was received from the Council, through Mr. Lovell, their Chief Clerk :

December 11, 1866.

That the following resolution was passed by the Council :

*Resolved*, That the Council shall not, after to-morrow, entertain any new matter for private legislation.

Also, that H. B. No. 62, "To authorize Fountain Donan to construct a toll bridge on the West Gallatin river," with amendments, was passed.

Also, C. B. No. 51, "An Act in relation to strays," was passed.

Also, C. B. No. 38, "An Act concerning penal bonds," was passed.

Also, C. B. No. 60, "An Act authorizing the people of Gallatin county to establish the county seat of said county," was passed.

C. B. No. 64, "An Act to authorize C. D. Leutsenheiser and others to construct a ferry across the Missouri river," was passed.

Also, that Mr. Moore, by consent, introduced C. B. No. 67, "An Act to incorporate the Madison Bridge and Ferry Company."

Also, that C. B. No. 57 was indefinitely postponed.

Also, that H. B. No. 34, "An Act to authorize J. C. Kerly and others to construct and maintain a water ditch from Mammoth Gulch to Red Mountain City in Deer Lodge county," was passed.

Also, that C. B. No. 69, "An Act to amend section 6 of an act defining the duties of county treasurers," was passed.

Also, that C. B. No. 55, "An Act to develop the agricultural interest and for the construction of a canal for irrigating, and for other purposes, in the county of Madison," was passed.

C. B. No. 41, "An Act to provide revenue and collecting same," was passed by Council.

Also, that Council refused to recede from their amendment to H. B. No. 16.

Also, that Mr. Brown, by previous notice, introduced C. B. No. 68, "An Act to authorize James M. Bailey and others to construct a toll bridge on Hell Gate river in Deer Lodge county."

Also, C. B. No. 50, "An Act to incorporate the Deep Creek Canal Company," was passed.

WM. Y. LOVELL,  
*Chief Clerk.*

Mr. Donegan, chairman of the Committee on Enrollment, reported as follows :

MR. SPEAKER—Your Committee on Enrollment, beg leave to report that they have presented House Bills Nos. 23, 53, and 61 to His Excellency the Governor for his signature, at 11 o'clock and 15 minutes, A. M., Dec. 12, 1866.

Mr. McManus in the chair.

C. B. No. 41 was read first and second time, and referred to the Committee on Ways and Means.

C. B. No. 55 was read first and second time, and referred to the Committee on Incorporations.

C. B. No. 64 was read the first and second time, and on motion of Mr. Buck, the rules were suspended and the bill read the third time, and passed by the following vote :

Roll called.

Those voting in the affirmative were—Messrs. Andrews, Blakely, Buck, Clanton, Donegan, Esler, Gallaher, Gorham, Jordan, John-

son, McCullough, McMurtry, Rhodes, Rogers, Roach, Smith, and Van Hagan—17.

Those voting in the negative were—Mr. Wylie and Mr. Speaker—2.

Title agreed to.

C. B. No. 50 was read first and second time, and referred to the Committee on Incorporations.

C. B. No. 60 was read first and second time, rule suspended, read the third time, and passed.

Those voting in the affirmative were—Messrs. Andrews, Blakely, Buck, Clanton, Donegan, Esler, Gallaher, Gorham, Johnson, Jordan, McCullough, McMannus, McMurtry, Rhodes, Rogers, Roach, Smith, Van Hagan, Wylie, and Mr. Speaker—20.

*Nays*—None.

C. B. No. 38. Read first and second time, and the rule suspended, bill read the third time by its title, and passed by the following vote :

Roll called.

Those voting in the affirmative were—Messrs. Andrews, Blakely, Buck, Clanton, Donegan, Esler, Gallaher, Gorham, Johnson, Jordan, McCullough, McMannus, McMurtry, Mimms, Rhodes, Roach, Rogers, Smith, Van Hagan, Wylie, and Mr. Speaker—21.

*Nays*—None.

C. B. No. 51. Read first time, and rejected.

C. B. No. 69. Read first and second time, and laid on the table for further consideration.

Mr. Mirams in the chair.

H. B. No. 77 was read for information.

Mr. Johnson moved to fill blank in section 7 with "one thousand dollars."

On motion of Mr. Johnson, the bill was read the third time by its title, and put upon its final passage.

Roll called.

Those voting in the affirmative were—Messrs. Buck, Clanton, Esler, Gallaher, Gorham, Johnson, McMannus, Mimms, Smith, and Wylie—10.

Those voting in the negative were—Messrs. Blakely, Donegan, Jordan, McCullough, McMurtry, Rhodes, Roach, Rogers, Van Hagan, and Mr. Speaker—10.

And the bill was lost.

On motion of Mr. Rogers, 200 copies of the General Incorporation Act was ordered printed for the use of the House.

On motion of Mr. Donegan, the House adjourned to 2 o'clock, P. M.

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#### AFTERNOON SESSION.

House met pursuant to adjournment. Speaker Mayhew in the chair.

Roll called—Quorum present.

On motion of Mr. Blakely, the vote by which H. B. No. 77 was lost was reconsidered.

A call of the House was ordered.

Roll called—Absent, Messrs. Clanton, Jordan, Mimms, and Roach.

Sergeant-at-Arms sent for absentees.

Sergeant-at-Arms reported the members all present.

H. B. No. 77 was then read, and passed by the following vote:

Those voting in the affirmative were—Messrs. Andrews, Blakely, Buck, Clanton, Esler, Gallaher, Gorham, Johnson, McMannus, Mimms, Smith, and Wylie—12.

Those voting nay were—Messrs. Donegan, Jordan, McCullough, McMurtry, Rhodes, Roach, Rogers, Van Hagan, and Mr. Speaker—9.

Mr. Johnson moved to reconsider the vote by which H. B. No. 77 was passed.

On motion of Mr. Wylie, the motion to reconsider was laid on the table.

The title was then agreed to.

The amendments of the Council to H. B. No. 62 were concurred in, and ordered engrossed for enrollment.

H. J. R. No. 4 was read the third time.

A call of the House ordered.

Roll called—Members all present.

The vote was then taken upon the final passage of H. J. R. No. 4.

Roll called.

Those voting in the affirmative were—Messrs. Andrews, Blakely, Buck, Clanton, Esler, Gallaher, Johnson, McMannus, McMurtry, Mimms, Smith, and Van Hagan—12.

Those voting nay were—Messrs. Donegan, Gorham, McCullough, Rhodes, Roach, Rogers, Wylie, and Mr. Speaker—8.

H. B. No. 76 was recommitted to the Committee on Incorporations.

Mr. Mimms moved to take H. J. R. No. 3 from the table. Lost.



C. B. No. 42. Report of the Committee on Judiciary on C. B. No. 42 was adopted.

The amendments were then adopted, and the bill, as amended, adopted.

And, on motion, the rules were suspended, the bill read the third time, and put upon its final passage.

Roll called.

Those voting in the affirmative were—Messrs. Blakely, Buck, Clanton, Gorham, Johnson, McCullough, McMurtry, Mimms, Rhodes, Roach, Rogers, Smith, Van Hagan, Wylie, and Mr. Speaker—15.

Those voting nay were—Messrs. Andrews, Donegan, and Gallaher—3.

The title was then agreed to.

H. B. No. 78. The report was, on motion, rejected.

On motion of Mr. Johnson, the rules were suspended, and H. B. No. 78 read the third time by its title, and put upon its final passage, and lost by the following vote :

Roll called.

Those voting in the affirmative were—Messrs. Donegan, Smith, and Mr. Speaker—3.

Those voting nay were—Messrs. Andrews, Blakely, Buck, Clanton, Gallaher, Gorham, Johnson, McCullough, McMurtry, Mimms, Rhodes, Roach, Rogers, Van Hagan, and Wylie—15.

The report upon H. B. No. 75 was adopted, and, on motion, the rules were suspended, the bill read the third time by its title, and put upon its final passage, and passed by the following vote :

Roll called.

Those voting in the affirmative were—Messrs. Blakely, Clanton, Donegan, Gallaher, Gorham, Johnson, McCullough, Rhodes, Roach, and Smith—10.



Those voting nay were—Messrs. Andrews, McMurtry, Mimms, Rogers, Van Hagan, and Mr. Speaker—6.

The title was agreed to.

H. B. No. 79 was read for information.

The rules were then suspended, and the bill read the third time by its title, and put upon its final passage, and lost by the following vote :

Roll called.

Those voting in the affirmative were—Messrs. Andrews, Donagan, Gallaher, Johnson, McMurtry, and Smith—6.

Those voting nay were—Messrs. Blakely, Clanton, Gorham, Jordan, McCullough, Mimms, Rhodes, Roach, Rogers, Van Hagan, and Mr. Speaker—11.

The following message was received from the Council, through Mr. Lovell, their Chief Clerk :

House Bill No. 47, "An Act to incorporate the Helena and Blackfoot Wagon Road Company, with amendments," has passed the Council.

Also, H. B. No. 5, "An Act to change the county seat of Missoula county, etc.," with amendments, has passed the Council.

Also, H. B. No. 55, "An Act to authorize B. F. Price and others to construct and maintain a toll road from Nevada City, M. T., to the southern boundary line of the Territory," passed the Council. Title agreed to.†

Also, C. B. No. 58, "A Bill for an act concerning the location of tunnels," has passed the Council, and title agreed to.

Also, C. B. No. 69, "An Act to authorize A. G. Lee and others to construct and maintain a toll road from Blackfoot City, Deer Lodge county, to Lost Horse Gulch, in Edgerton county," has passed the Council.

Also, H. B. No. 60, "An Act to confer certain powers on the sheriff of Edgerton county," has passed the Council.

Also, that Council have concurred in House amendments to C. B. No. 54.

Mr. Johnson in the chair.

The report of the Committee on Finance on H. B. No. 72 was adopted.

The bill was then read for information.

Mr. McCullough moved to indefinitely postpone the bill. Lost.

Mr. McCullough moved to amend section 1 by striking out "5,000," and inserting "2,000."

Mr. Mayhew moved to amend the amendment by striking out "2,000," and inserting "4,000."

A call of the House was ordered.

Roll called—Messrs. Esler and Gallaher absent.

On motion, further proceedings under the call were dispensed with.

Mr. Mayhew's amendment was then lost.

Mr. McCullough moved to indefinitely postpone. Motion lost.

Mr. Smith moved to strike out "5,000," and insert "3,000."

Mr. McCullough moved to lay the motion on the table. Lost.

Mr. McCullough moved to adjourn. Lost.

Mr. Smith's amendment was then adopted.

Mr. McCullough moved to adjourn to 6½ o'clock, P. M. Lost.

On motion of Mr. Smith, the bill was considered engrossed.

Mr. Rogers appealed from the decision of the chair on the above motion of Mr. Smith.

The chair was sustained.

A call of the House was ordered.

Roll called—Mr. Gallaher absent.

Mr. Gallaher reported present.

Mr. Smith moved to suspend the rule, and read the bill the third time by its title. Motion lost.

The bill was then read the third time, and lost by the following vote:

Roll called.

Those voting in the affirmative were—Messrs. Blakely, Donagan, Esler, Johnson, Jordan, McMurtry, Smith, and Mr. Speaker—8.

Those voting nay were—Messrs. Andrews, Buck, Clanton, Gorham, McMannus, McCullough, Mimms, Rhodes, Roach, Rogers, Van Hagan, and Wylie—12.

Mr. Smith moved to adjourn to 10 o'clock to-morrow. Lost.

Mr. Mayhew moved to adjourn to 7 o'clock, P. M. Carried.

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#### EVENING SESSION.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—Quorum present.

Mr. McCullough, chairman of the Committee on Incorporations, reported H. B. No. 76 back to the House, with amendments.

The report was then adopted, and the bill as amended adopted, and ordered engrossed for a third reading.

The following messages were received from the Council, through their Chief Clerk, Mr. Lovell :

H. B. No. 71, "An Act to invest the St. Louis and Montana Mining Company with certain privileges," has passed the Council, with accompanying amendments.

December 12, 1866.

MR. SPEAKER—I am directed by the Council to inform your honorable body that the following bill (No. 70) has passed the Council as a substitute for House Resolution No. 4.

December 12, 1866.

MR. SPEAKER—I am directed by the Council to inform your honorable body that they have passed H. B. No. 43, with accompanying amendments.

Also, C. B. No. 52 has passed the Council.

December 12, 1866.

Mr. Roach reported, from the Committee on Education, on H. B. No. 74.

The following report was received from the Committee on Enrollment, by Mr. Donegan :

MR. SPEAKER—Your Committee on Enrollment beg leave to report that they have examined H. B. No. 34, H. B. No. 36, and H. B. No. 54, and find the same correctly enrolled.

Mr. Mimms moved to adopt the substitute. Carried.

On motion of Mr. Jordan, the substitute was read the third time, and passed.

Roll called.

Those voting in the affirmative were—Messrs. Andrews, Buck, Donegan, Esler, Gorham, Johnson, Jordan, McMannus, McMurtry, Mimms, Rhodes, Roach, Rogers, Van Hagan, Wylie, and Mr. Speaker—16.

*Nays*—None.

Title agreed to.

C. B. No. 41. Mr. Buck moved to adopt the report. Carried.

On motion of Mr. McMurtry, the rules were suspended, the bill read the third time by its title, and passed.

Roll called.

Those voting in the affirmative were—Messrs. Andrews, Buck, Donegan, Esler, Gorham, Johnson, Jordan, McMannus, McMurtry, Mimms, Rhodes, Roach, Rogers, Smith, Van Hagan, and Mr. Speaker—16.

Those voting nay were—Messrs. McCullough and Wylie—2.

Title agreed to.

C. B. No. 63 was read for information.

On motion of Mr. Esler, the rules were suspended, the bill read the third time, and passed by the following vote:

Those voting in the affirmative were—Messrs. Andrews, Blakely, Buck, Clanton, Donegan, Esler, Gallaher, Gorham, Johnson, Jordan, McCullough, McMurtry, Mimms, Rhodes, Roach, Rogers, Smith, Van Hagan, Wylie, and Mr. Speaker—20.

*Nays*—None.

Title agreed to.

H. B. No. 81 was read for information.

On motion of Mr. Wylie, the bill was read the third time, and put upon its final passage.

Roll called.

A call of the House ordered.

On motion of Mr. Andrews, further proceedings under the call were dispensed with.

The roll was then called, with the following result, upon H. B. No. 81:

Those voting in the affirmative were—Messrs. Buck, Esler, Gorham, McMurtry, Rhodes, Smith, Van Hagan, Wylie, and Mr. Speaker—9.

Those voting in the negative were—Messrs. Andrews, Blakely, Clanton, Donegan, Gallaher, Johnson, Jordan, McCullough, Mimms, Roach, and Rogers—11.

And the bill was lost.

Mr. Donegan reported as follows, from the Committee on Enrollment :

MR. SPEAKER—Your Committee on Enrollment beg leave to report that they have examined H. B. No. 56, and find the same correctly enrolled.

H. B. No. 71. Amendments of the Council concurred in, and the bill ordered engrossed for enrollment.

On motion of Mr. McCullough, C. B. No. 69 was taken from the table.

C. B. No. 69 was then read for information.

On motion of Mr. McCullough, C. B. No. 69 was indefinitely postponed.

H. B. No. 81. Report rejected.

The bill was then amended, and ordered engrossed.

H. B. No. 64 was taken up and read the third time, and passed by the following vote :

Roll called.

Those voting in the affirmative were—Messrs. Andrews, Blakely, Clanton, Donegan, Esler, Gallaher, Gorham, Johnson, Jordan, McMurtry, Rogers, Van Hagan, Wylie, and Mr. Speaker—14.

Those voting nay were—Messrs. Buck, McCullough, Mimms, Rhodes, Roach, and Smith—6.

Title agreed to.

The House refused to recede from their amendments to C. B. No. 42.

Mr. McCullough moved to appoint a Committee of two to confer with Committee of two from Council in relation to C. B. No. 42.

Messrs. McCullough and McMurtry were appointed on the part of the House.

Mr. Blakely moved to adjourn. Lost.

A call of the House was ordered.

Roll called—Messrs. Esler, Clanton and Smith absent.

The Sergeant-at-Arms was sent for absentees.

Mr. Reach moved that further proceedings under the call be dispensed with.

On motion of Mr. McMurtry, further proceedings under the call were dispensed with.

On motion of Mr. Rogers, the House adjourned at 10 o'clock, A. M., to-morrow.

A. E. MAYHEW,

*Speaker.*

A. H. BARRET,

*Chief Clerk.*



## THIRTY-EIGHTH DAY.

DECEMBER 13, 1866.

House met pursuant to adjournment. Speaker Mayhew in the chair.

Roll called—Quorum present.

The reading of the journal was dispensed with until the afternoon session.

Mr. McCullough reported as follows, upon C. B. No. 50:

MR. SPEAKER—The Committee to whom was referred Council Bill No. 50, report this bill back to the House, and recommend its passage, after amending it as follows:

In section 2, line 4, strike out the word "full."

Add to section 2, the following:

"*Provided*, That the rights granted by this charter shall not be so construed as to in anywise interfere with parties who may hereafter discover mines or wish to farm on said streams below the points named in section 2 of this act."

In section 4, strike out the last two lines.

Also, in section 4, line 9, after "1867," insert as follows, to wit: "And shall complete the same in two years from the passage of this act."

Report received.

Mr. McCullough reported as follows, on C. B. No. 55:

MR. SPEAKER—Your Committee, to whom was referred Council Bill No. 55, report the same back to the House, and recommend

it do not pass, as this Canal Company propose to take the water from Indian Creek on the east side of Madison river at a point where said Indian Creek reaches the table lands. This would deprive parties who now have the free use of the waters of this stream from irrigating their farms without purchasing, a right now enjoyed without money and without price. Again, Indian Creek is one of the principal sources of irrigation of a very large farming country, and evidently, this franchise could not be granted without injury to the many while it would benefit only the incorporators.

Report received.

Mr. Mimms introduced, with the unanimous consent of the House, H. B. No. 82, "An Act amendatory of an act entitled the civil practice act."

Read first and second time, and, on suspension of the rules, was read the third time by its title, and passed by the following vote :

Those voting in the affirmative were—Messrs. Andrews, Blakely, Clanton, Esler, Gallaher, Gorham, Johnson, Jordan, McCullough, McMannus, McMurtry, Mimms, Rhodes, Roach, Rogers, Smith, Van Hagan, and Wylie—18.

*Nay*—Mr. Speaker.

On leave, Mr. McMurtry introduced H. B. No. 83, "An Act allowing J. M. Castner compensation for boarding certain prisoners."

Read first and second time, and referred to a Select Committee of two, consisting of Messrs. McCullough and Rogers.

C. B. No. 70 was read the first and second time, and Mr. Buck offered the following amendment, which was adopted :

Add to section 2, as follows :

"Each fireman shall be allowed four hundred dollars."

Mr. McCullough offered the following amendment, which was, on the motion to adopt, lost :

Add section 6: "That L. P. Williston shall be paid out of any funds of the Territory not otherwise appropriated, an annual sum of \$2,000, to be allowed and paid quarterly."

Change section 6 to section 7.

A call of the House was ordered.

Roll called—Messrs. Buck, Clanton, Jordan, and Wylie, absent.

Sergeant-at-Arms was sent for the absentees.

Mr. Buck present.

Mr. Buck moved that further proceedings under the call be dispensed with. Lost.

The Sergeant-at-Arms reported the absentees present.

The bill was then read the third time, and put upon its final passage, and passed.

Roll called.

Those voting in the affirmative were—Messrs. Andrews, Blakely, Buck, Clanton, Gallaher, Johnson, Jordan, McMannus, McMurtry, Mimms, Van Hagan, Wylie, and Mr. Speaker—13.

Those voting in the negative were—Messrs. Donegan, Gallaher, McCullough, Rhodes, Roach, Rogers, and Smith—7.

Mr. Donegan, chairman of the Committee on Enrollment, reported as follows:

MR. SPEAKER—Your Committee on Enrollment, beg leave to report that they presented House Bills Nos. 56, 54, 34 and 36 to His Excellency the Governor, for his signature, at 11 o'clock, A. M., Dec. 13, 1866.

Mr. Smith, chairman of the Committee on Engrossment, reported as follows:

MR. SPEAKER—Your Committee on Engrossment have examined House Bill No. 71, and find the same correctly engrossed.

On motion of Mr. Rogers, the vote by which H. B. No. 79 was lost on final passage, was reconsidered.

The bill was then read the third time, and passed by the following vote :

Roll called.

Those voting in the affirmative were--Messrs. Andrews, Buck, Donegan, Esler, Gorham, Johnson, McCullough, McMannus, McMurtry, Mimms, Roach, Rogers, Smith, Van Hagan, Wylie, and Mr. Speaker—16.

Those voting in the negative were—Messrs. Clanton, Jordan, and Rhodes—3.

The title was agreed to.

A Motion to adjourn was lost.

C. B. No. 69 was returned to the Council for correction.

C. B. No. 58 was read first time, and, on motion was rejected.

On motion, the House adjourned to 2 o'clock, P. M.

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#### AFTERNOON SESSION.

House met pursuant to adjournment. Speaker Mayhew in the chair.

Roll called—Not a quorum present.

A call of the House was ordered.

Absent—Messrs. Andrews, Blakely, Clanton, Esler, Jordan, McCullough, Rogers, Smith, and Van Hagan.

Quorum present.

Further proceedings under the call were then dispensed with.

The minutes of yesterday were then read and approved.

On motion of Mr. Blakely, a Committee of two from the House, was appointed, asking the Council to appoint a like Committee, to inquire as to the whereabouts of H. B. No. 16.

Messrs. Blakely and Wylie were appointed as such Committee on the part of the House.

C. B. No. 70 was returned to the Council for correction.

C. B. No. 68 was read first and second time, and on suspension of the rules, read third time by its title, and passed by the following vote :

Those voting in the affirmative were—Messrs. Andrews, Blakely, Buck, Clanton, Donegan, Gallaher, Gorham, Johnson, Jordan, McMannus, McMurtry, Rhodes, Roach, Rogers, Van Hagan, Wylie, and Mr. Speaker—17.

Those voting in the negative were—Messrs. Esler, McCullough, and Mimms—3.

And the title was agreed to.

C. B. No. 66 was returned to the Council to have their action indorsed on the same.

C. B. No. 26 was taken up, and the House refused to recede from their amendments.

Messrs. McMurtry and McCullough were appointed as a Committee of Conference on C. B. No. 26.

The following report was received from the Committee on Engrossment :

That House Bills Nos. 47, 76 and 80 were correctly engrossed.

The Committee on Enrollment reported as follows :

That H. B. No. 71 was correctly enrolled, and had been presented to the Governor, for his signature, at 1 o'clock, P. M., Dec. 13, 1866.

C. B. No. 59 was taken up, and the House refused to recede from their amendments to the bill, and the following Committee of Conference was appointed by the House, to confer with a like Committee from the Council—Messrs. McMurtry and Johnson.

C. B. No. 53 was taken up and read first time, and the motion to reject the bill was lost.

The bill was then read the second time, and, on suspension of the rules, read the third time, and put upon its final passage, and passed by the following vote:

Those voting in the affirmative were—Messrs. Andrews, Blakely, Donegan, Esler, Gorham, Johnson, McCullough, McMannus, McMurtry, Smith, and Van Hagan—11.

Those voting nay were—Messrs. Buck, Gallaher, Mimms, Rhodes, Roach, and Wylie—6.

The title was then agreed to.

H. B. No. 47 was taken up, and the Council amendments to said bill were concurred in.

The following communication was received from the Council, through their Chief Clerk, Mr. Wm. Y. Lovell:

The Council do not concur in the House amendments to C. B. No. 26, "An Act to incorporate the Missouri River and Rocky Mountain Wagon Road and Telegraph Company," and ask the House to recede.

Also, that C. B. No. 66, "An Act in relation to change of venue in civil and criminal cases," has passed the Council.

Also, that H. B. No. 59, "An Act to authorize John Lenan, his heirs, etc., to construct a toll bridge or ferry across the Hell Gate river," passed the Council.

Also, that House Joint Memorial No. 5 has passed the Council.

Also, that C. B. No. 68, "An Act to authorize James M. Baily to construct and maintain a toll bridge on the Hell Gate river, in Deer Lodge county," has passed the Council.

Also, that H. B. No. 73, "An Act to authorize J. J. Tomlinson to construct a bridge or ferry on the Yellowstone river," has passed the Council.

Also, C. B. No. 59, "An Act prohibiting the Territorial Auditor from issuing warrants without express provision of law, etc.," the Council refuse to concur in House amendments, and ask the House to recede.

Also, that H. B. No. 22, "An Act to authorize Warren and others to construct a ferry across the Clark's Fork of the Yellowstone river," has passed the Council.

The following communication was received from His Excellency the Governor.

EXECUTIVE OFFICE, TERRITORY OF MONTANA, }  
VIRGINIA CITY, Dec. 13, 1866. }

MR. SPEAKER—On the 12th inst. I approved and signed House Bill No. 61, entitled "An Act to incorporate the Silver Bow Ditch Company."

Also, House Bill No. 53, entitled "An Act to authorize Henry Gasset and James Sinclair to construct and maintain a ferry or bridge across the Jefferson river."

Also, House Bill No. 23, entitled "An Act to authorize L. H. Warren, H. Gasset and James Sinclair to construct and maintain a ferry across Big Horn river."

Also, on this day, approved and signed House Bill No. 36, entitled "An Act to incorporate the Madison Bridge Company."

Also, House Bill No. 54, entitled "An Act for the better observance of the Lord's Day."

Also, House Bill No. 56, entitled "An Act providing for the payment of jurors in the courts of Montana Territory."

Also, House Bill No. 34, entitled "An Act to authorize J.



C. Kirby and Wm. H. Todd, their heirs and assigns, to construct and maintain a water ditch from Mammoth Gulch to Red Mountain City, in Deer Lodge county."

GREEN CLAY SMITH.

C. B. No. 66. Read first and second time, and the rules suspended, the bill read the third time, and put upon its final passage, and passed by the following vote:

Those voting in the affirmative were—Messrs. Andrews, Blakely, Buck, Donegan, Esler, Gallaher, Gorham, Johnson, McCullough, McMurtry, Mimms, Rhodes, Roach, Rogers, and Mr. Speaker—15.

Those voting in the negative were—Messrs. McMannus, Smith, and Van Hagan—3.

The title was then agreed to.

C. B. No. 52 was read first and second time, and, on motion of Mr. Blakely, laid on the table for further consideration.

The following communication was received from the Council through their Chief Clerk, Mr. Lovell:

Council Bill No. 74, "An Act for the protection of roads and highways," has passed the Council.

Also, that C. B. No. 73, "An Act to authorize the Governor to appoint an assessor and collector for the county of Choteau, under certain conditions," has passed the Council.

Also, C. B. No. 72, "An Act authorizing Henry Whaley and others to construct a toll road in Meagher county," has passed the Council.

C. B. No. 52, properly endorsed, is herewith returned.

Council Bill No. 70, returned, has been corrected by making it Council Bill No. 71.

That they have passed C. B. No. 53, "An Act to divorce Martha A. Williams and Allen Williams from the bonds of matrimony."

C. B. No. 71. Read first and second time, and rules suspended, the bill read the third time and passed by the following vote :

Those voting in the affirmative were — Messrs. Andrews, Blakely, Buck, Donegan, Gallaher, Gorham, Johnson, McMannus, McMurtry, Mimms, Rhodes, Rogers, Van Hagan, and Wylie—14.

Those voting nay were—Messrs. Esler, Jordan, McCullough, Roach, and Mr. Speaker—5.

C. B. No. 72. Read first and second time, rules suspended, the bill read the third time by its title, and put upon its final passage, and passed by the following vote :

Those voting in the affirmative were—Messrs. Andrews, Donegan, Esler, Gallaher, Gorham, Johnson, Jordan, Rhodes, Roach, Rogers, and Mr. Speaker—11.

Those voting in the negative were—Messrs. Blakely, McCullough, McMannus, McMurtry, Mimms, Van Hagan, and Wylie—7.

C. B. No. 73. Read first and second time, the rule suspended, the bill read the third time by its title, and put upon its final passage, and passed by the following vote :

Those voting in the affirmative were—Messrs. Andrews, Blakely, Donegan, Esler, Gallaher, Gorham, Johnson, Jordan, McCullough, McMannus, McMurtry, Mimms, Rhodes, Roach, Rogers, Van Hagan, Wylie, and Mr. Speaker—18.

Those voting nay—None.

The title was then agreed to.

C. B. No. 74. Read first and second time, and referred to the Committee on Roads and Bridges.

The House concurred in the Council amendments to H. B. No. 5, and the bill, as amended, was ordered engrossed for enrollment.

H. B. No. 80. Rule suspended, bill read the third time by its title, and put upon its final passage, and passed by the following vote :

Those voting in the affirmative were — Messrs. Andrews, Blakely, Buck, Donegan, Gorham, Johnson, Jordan, McMannus, Mimms, Rhodes, Rogers, Van Hagan, and Mr. Speaker—13.

Those voting in the negative were — Messrs. McCullough, McMurtry, Roach, and Wylie—4.

The title was then agreed to.

C. B. No. 50. The report of the Committee on Incorporations was adopted, and, on motion to adopt the amendments, the amendments were lost.

The rule was then suspended, the bill read the third time, and passed by the following vote :

Those voting in the affirmative were—Messrs. Andrews, Blakely, Buck, Donegan, Gorham, McMannus, McMurtry, Mimms, Rhodes, Van Hagan, and Mr. Speaker—11.

Those voting in the negative were—Messrs. Johnson, Jordan, McCullough, Roach, Rogers, and Wylie—6.

The title was then agreed to.

C. B. No. 55. Report of the Committee on Incorporations was adopted.

And, on motion, the bill was indefinitely postponed.

On motion, the House adjourned to 10 o'clock, to-morrow.

A. E. MAYHEW,  
*Speaker.*

A. H. BARRET,  
*Chief Clerk.*

## THIRTY-NINTH DAY.

DECEMBER 14, 1866.

The House met pursuant to adjournment. Speaker Mayhew in the chair.

Roll called.

H. B. No. 83 was reported on as follows, by Mr. McCullough, chairman of the Select Committee, to whom was referred H. B. No. 83:

MR. SPEAKER—Your Select Committee, to whom was referred H. B. No. 83, report the same back, with the following statement:

The prisoners named in this bill were arrested in Salt Lake, and imprisoned there, on a charge for a violation of the laws of Utah Territory, escaped, and came to Montana, and were arrested by a police officer of Virginia City, and imprisoned, as a reward of fifty dollars each had been offered. Said prisoners were not arrested under the laws of this Territory, nor tried in any court of the same, but were kept, fed and discharged without any process of law.

We are of opinion that we are not authorized by law to give relief in any case of this kind.

The following message was received from the Council:

That the Council have receded from their amendments to House Bill No. 16, "An Act to authorize Chas. Francisco and D. Abbott to construct a ferry on Sun river."

Also, that H. B. No. 69, "An Act to incorporate the Missoula Mills and Fort Owen Wagon Road and Bridge Company," has passed the Council, and title agreed to.

Also, that H. B. No. 58, "An Act entitled an act concerning licenses," has passed the Council, with accompanying amendments.

Also, that C. B. No. 61, "An Act to establish a territorial road in Edgerton county," was, on final vote, declared lost.

Also, that H. B. No. 77, "An Act for the funding of the debt of Montana Territory," has passed the Council. Title agreed to.

Also, that the Council have passed H. B. No. 28, "An Act authorizing S. Bressler and others to construct a toll road," as amended by Council.

Also, that H. B. No. 68, "An Act authorizing the people of Jefferson county to locate the county seat," has passed the Council. Title agreed to.

Also, that C. B. No. 65, "An Act to authorize the citizens of Virginia City to vote upon the rejection or continuance of their incorporated organization," was, on final vote, declared lost.

Also, that H. B. (Substitute) No. 74, "An Act to amend an act entitled an act to establish a common school system for the Territory of Montana," was, on motion, indefinitely postponed.

Also, House Bill No. 75, "An Act to erect a bridge across the Bitter Root river," was indefinitely postponed by the Council.

Also, that H. B. No. 37, "An Act amendatory of an act locating the seat of government in and for Montana Territory," has passed the Council.

Also, that the Council have concurred in the House amendments to Council Bill No. 70, being "An Act allowing compensation to certain officers of this Territory."

Also, that H. B. No. 19, "An Act to amend an act entitled an act concerning limitations," was, by the Council, indefinitely postponed.

Also, that H. B. No. 75, "An Act to authorize Edwin W. Park to erect a bridge across the Bitter Root river," was, by the Council, indefinitely postponed.

Also, that H. B. No. 79, "An Act to incorporate the Montana Hydraulic and Mining Company," has passed the Council. Title agreed to.

Also, C. J. R. No. 8, "In relation to the distribution of the laws," has passed the Council.

Also, that H. B. No. 57, "An Act incorporating the Montana Stage Company," has passed the Council.

Message from the Governor :

EXECUTIVE OFFICE, VIRGINIA CITY, M. T. }  
December 14, 1866. }

MR. SPEAKER—I inform your honorable body that I have this day approved and signed the following House Bills, viz :

House Bill No. 5, entitled "An Act to change the county seat of Missoula county, and to legalize the acts of the county commissioners of Missoula county."

Also, House Bill No. 47, "An Act to incorporate the Helena and Blackfoot Wagon Road Company."

Also, House Bill No. 57, "An Act to incorporate the Montana Stage Company."

Also, House Bill No. 60, "An Act to confer certain powers on night watchmen in the town of Helena, county of Edgerton."

Also, House Bill No. 62, "An Act to authorize Fountain Donan to construct and maintain a toll bridge on the West Gallatin river, in Gallatin county."

Also, House Bill No. 55, "An Act to authorize B. F. Price, James L. Kirby and William H. Rogers to establish and maintain a toll road from Nevada City, Montana Territory, to the southern boundary line of the Territory."

Also, House Bill No. 73, "An Act to authorize J. J. Tomlinson to construct a ferry on the Yellowstone river."



Also, House Bill No. 59, "An Act to authorize John Lenan, his heirs, assigns and associates, to construct and maintain a toll bridge or ferry across the Hell Gate river."

Also, Memorial No. 5, "Asking Congress to amend the Organic Act, so as to extend the jurisdiction of justices of the peace."

GREEN CLAY SMITH.

The House concurred in Council amendments to House Joint Resolution No. 5.

Mr. McMurtry, chairman of the Committee on the Judiciary, reported as follows, on C. B. No. 16:

MR. SPEAKER—Your Committee on Judiciary, to whom was referred Council Bill No. 16, beg leave to report the same back to the House, with a recommendation that it do pass, with the following amendments:

In section 1, fourth line, insert the words "Beaver Head and Gallatin."

Strike from the seventh, eighth and ninth lines the words "Beaver Head and Gallatin, Big Horn and Vivian."

In sections 4 and 5, strike out the words "April, August, and December," and further amending the sections by inserting the following: "in Beaver Head county, on the first Mondays in May and September in each year; in Gallatin county, on the first Monday in April of each year."

Amend section 5 as follows:

Strike out all that portion of the section in the sixth, seventh and eighth lines, between the words "year" and "year."

Strike from the section all that portion following the word "year," in the fourth line (independent of interlineations) from the bottom of the section.

Amend section 6 by concluding the section as follows: "in the county of Big Horn, on the first Monday of April in each year. That the county of Vivian be and the same is hereby attached to Big Horn county for judicial purposes."

And further amend section 1 by concluding the section with the words "Vivian and Big Horn."



The amendments proposed by the Committee were adopted.

And the bill adopted, as amended.

On motion of Mr. Mayhew, the rules were suspended, the bill read the third time by its title, and placed upon its final passage.

A call of the House was ordered.

On motion of Mr. Andrews, further proceedings under the call were dispensed with.

The vote was then taken upon C. B. No. 16, and bill passed by the following vote :

Those voting in the affirmative were—Messrs. Andrews, Donegan, Gallaher, Gorham, Johnson, Jordan, McCullough, McMannus, McMurtry, Mimms, Rhodes, Roach, Van Hagan and Mr. Speaker—14.

Those voting in the negative were—Messrs. Buck, Clanton, Esler, Rogers, Smith, and Wylie—6.

The title was then agreed to.

The following report was made by the Committee on Enrollment :

That H. B. Nos. 67 and 38 were correctly enrolled.

That H. B. No. 80 was correctly enrolled.

C. J. R. No. 8. Read first and second time, rule suspended, read third time by its title, and passed by the following vote :

Those voting in the affirmative were—Messrs. Andrews, Blakely, Buck, Clanton, Donegan, Esler, Gorham, Jordan, McCullough, McMannus, McMurtry, Mimms, Rhodes, Roach, Rogers, Smith, Van Hagan, Wylie, and Mr. Speaker—19.

Nay—Mr. Johnson.

Mr. Buck introduced H. J. R. No. 5.

Read first and second time, and referred to the Committee on Finance.

C. J. R. No. 9. Read first and second time, and, on suspension of the rule, read the third time.

Read the third time, and passed by the following vote :

Those voting in the affirmative were—Messrs. Andrews, Blakely, Clanton, Esler, Gorham, Johnson, McCullough, McMurtry, Mimms, Rhodes, Roach, Rogers, Smith, Van Hagan, and Mr. Speaker—15.

*Nays*—Messrs. Buck and Jordan—2.

Title agreed to.

The amendments of the Council to H. B. No. 28 were concurred in by the House, and the bill ordered engrossed for Enrollment.

On motion of Mr. Mimms, H. J. R. No. 3 was taken from the table and read the third time by its title, and passed by the following vote :

Those voting in the affirmative were—Messrs. Andrews, Blakely, Buck, Gorham, Johnson, Jordan, Mimms, Rhodes, Roach, Smith, Van Hagan, and Mr. Speaker—12.

Those voting in the negative were—Messrs. Clanton, McCullough, McMannus, McMurtry, and Rogers—5.

H. B. No. 58 was taken up, and the amendments of the Council concurred in.

Mr. Gorham reported H. J. R. No. 5 back to the House, with the recommendation that it pass.

H. J. R. No. 5. Read third time, and passed by the following vote :

Those voting in the affirmative were—Messrs. Andrews, Buck, Clanton, Esler, Johnson, Jordan, McCullough, McMannus, McMurtry, Mimms, Rhodes, Roach, Rogers, and Wylie—14.

*Nay*—Mr. Speaker.

Title agreed to.

## AFTERNOON SESSION.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—Quorum present.

C. B. No. 52 was taken from the table, and, on motion, was indefinitely postponed.

H. B. No. 28. The House concurred in the Council amendments to House Bill No. 28, and the bill was ordered engrossed for Enrollment.

H. B. No. 83 was read for information.

The motion to lay the report of the Select Committee on the table was lost.

On motion of Mr. McMurtry, the bill was read the third time and put upon its final passage, and passed by the following vote:

Those voting in the affirmative were—Messrs. Andrews, Blakely, Buck, Donegan, Esler, Gallaher, Johnson, Jordan, Rhodes, Roach, Smith, Van Hagan, and Mr. Speaker—13.

Those voting in the negative were—Messrs. Clanton, Gorham, McCullough, Mimms, Rogers, and Wylie—6.

And the title was agreed to.

The Committee on Enrollment reported as follows:

MR. SPEAKER—Your Committee on Enrollment have examined H. B. No. 58, and find the same correctly enrolled.

H. B. No. 74 was read for information.

On motion, the rules were suspended, the bill read the third time, and lost by the following vote:

Those voting in the affirmative were—Messrs. Blakely, Gallaher, Gorham, Johnson, McMannus, Rhodes, Rogers, Van Hagan, and Wylie—9.

Those voting in the negative were—Messrs. Andrews, Buck, Clanton, Donegan, Esler, Jordan, McCullough, McMurtry, Mimms, Roach, and Mr. Speaker—11.

The House then took a recess until 4 o'clock.

House resumed.

Mr. Rhodes reported as follows, on H. B. No. 38 :

MR. SPEAKER—Your Committee on Mines and Minerals, to whom was referred House Bill No. 38, beg leave to report that they have had the same under consideration and recommend the bill do pass.

C. B. No. 16. Read first and second time, and referred to the Committee on Judiciary.

Council Joint Resolution No. 12 was read the first and second time, and, on motion, the rules were suspended, and the resolution was then passed.

Mr. McCullough introduced the following resolution :

*Resolved*, That the Enrolling Clerk be authorized to procure the services of an assistant enrolling clerk during this session.

Which was, on motion, passed.

The Committee on Enrollment presented the following report :

MR. SPEAKER—Your Committee on Enrollment beg leave to report that they have examined House Bills Nos. 73, 57, 62, 60, 43, 47, 55, 59, 22, and 5. Also, House Joint Memorial No. 5.

Mr. McMurtry, from the Committee of Conference on Council Bill No. 26, presented the following report :

MR. SPEAKER—The Conference Committee of the two Houses, to whom was referred Council Bill No. 26, having had the same under consideration, and the amendments thereto, to which the Houses disagreed, report the same back, and agree that the House recede from its amendments.

L. McMURTRY.

T. J. LOWRY.

J. G. SPRATT.

Mr. McCullough, from the same Committee, presented the following, as a minority report :

I desire to submit the following minority report on Council Bill No. 26 :

I called at the Council Chamber, and could not learn that any Committee of Conference had been appointed, but was informed that no such committee as had been asked of the Council by this House had been appointed. Further, as the amendment in this bill was proposed by Mr. Andrews, a stockholder in the corporation referred to, and as this amendment would, if concurred in, prevent the completion of the road from here to Hot Springs, in Madison county, I therefore trust this House will not recede from its amendments to said bill.

J. L. McCULLOUGH.

Mr. Wylie moved to adopt Mr. McCullough's report, which motion was lost.

Mr. Esler moved to receive and adopt the report of Mr. McMurry, which motion was lost.

Mr. Johnson moved that the House recede from its amendments to Council Bill No. 26.

Mr. Blakely moved to lay this motion on the table, which motion was lost.

Mr. Mimms in the chair.

The ayes and nays were then called for on Mr. Johnson's motion, which was lost by the following vote :

*Ayes*—Messrs. Andrews, Buck, Clanton, Esler, Gorham, Johnson, McMurtry, Van Hagan, and Mr. Speaker—9.

*Nays*—Messrs. Blakely, Donegan, Gallaher, Jordan, McCullough, Mimms, Rhodes, Roach, Rogers, and Wylie—10.

Mr. Gorham introduced House Joint Memorial No. 6.

Read the first time.

The second reading being objected to, the question to reject was put, and lost.

It was then read a second time, and, on motion of Mr. Van Hagan, was referred to Select Committee of five, consisting of Messrs. Van Hagan, McMurtry, McCullough, Johnson, and Esler.

Council Joint Memorial was then read the first time, and, on motion of Mr. Johnson, was rejected.

House Joint Memorial No. 5 was read first and second time.

On motion, the rules were suspended, the memorial was read the third time, and passed.

On motion, the House then adjourned to 6½ o'clock.

## EVENING SESSION.

House met pursuant to adjournment. Speaker Mayhew in the chair.

Roll called—Quorum present.

Mr. Wylie from the Committee on Enrollment, reported as follows:

MR. SPEAKER—Your Committee on Enrollment beg leave to report that they have presented to the Governor, for his approval, House Bills Nos. 38, 58, 67, and 80, at half past 8 o'clock, P. M., December 14, 1866.

On motion of Mr. Mayhew, C. B. No. 22 was taken from the table and read for information.

And, on motion, the rules were suspended, the bill read the third time by its title, and put upon its final passage, and passed by the following vote:

Roll called.

Those voting in the affirmative were—Messrs. Andrews, Blakely, Donegan, Jordan, McCullough, Mimms, Rhodes, Roach, Rogers, Van Hagan, and Mr. Speaker—11.

Those voting in the negative were—Messrs. Buck, Clanton, Gorham, Johnson, McMannus, McMurtry, Smith, and Wylie—8.

And the title was agreed to.

The following message was received from the Governor:

EXECUTIVE OFFICE,  
VIRGINIA CITY, M. T., Dec. 14, 1866. }

MR. SPEAKER—Allow me to inform your honorable body, that I have this day approved and signed the following House Bills, viz.:



House Bill No. 16, "An Act to authorize Charles Francisco and David P. Abbott to construct and maintain a ferry on Sun river."

Also, House Bill No. 58, "An Act authorizing the people of Jefferson county to hold an election for the purpose of changing and permanently locating the county seat of Jefferson county."

Also, House Bill No. 77, "An Act to provide for the funding of the debt of Montana Territory."

Also, House Bill No. 69, "An Act to incorporate the Missoula Mills and Fort Owen Wagon Road and Bridge Company."

Also, House Bill No. 37, "An Act to amend an act entitled an act for the location of the seat of government in and for Montana Territory."

GREEN CLAY SMITH.

On motion of Mr. Mayhew, the House adjourned to 10 o'clock to-morrow.

A. E. MAYHEW,

*Speaker.*

A. H. BARRET,

*Chief Clerk.*

## FORTIETH DAY.

DECEMBER 15, 1866.

The House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called.

Mr. Smith introduced the following resolution, which was adopted :

*Resolved*, That His Excellency be requested to return H. B. No. 43 to this House.

Mr. Gallaher in the chair.

The following report was made by the Committee of Conference on C. B. No. 42, which was adopted :

The Conference Committee of the two Houses, to whom was referred Council Bill No. 42, and the amendments thereto, to which the two Houses disagreed, having had same under consideration, beg leave to report the bill back, recommending that section 21 of said act be amended as follows, to wit: By adopting the House amendments down to, and including the word "insufficient," the words "to have been" being inserted between the words "aforesaid" and "insufficient," in line 13.

That the Council concur in all the other amendments of the House to said bill.

LOUIS MCMURTRY,  
J. L. MCCULLOUGH,

*For the House.*

J. G. SPRATT,  
E. F. PHELPS,

*For the Council.*

The bill was then adopted as amended.

MR. SPEAKER—Your Committee on Enrollment beg leave to report that they have presented to the Governor, House Bill No. 83 ; also, House Joint Resolution No. 5, for his approval, at 11 o'clock, A. M., this day, Dec. 15, 1866.

Report received.

C. J. R. No. 14, read first and second time, and, on motion, the rules were suspended, the resolution read the third time, and passed.

The following message was received from the Governor :

MR. SPEAKER—I am directed by the Governor to inform the House of Representatives that he has approved and signed House Bill No. 58, entitled " A Bill for an act entitled an act concerning licenses."

Also, House Bill No. 67, entitled " An Act to authorize Henry McFarlin, his heirs, assigns and associates, to establish and maintain a ferry across the Missouri river."

Also, House Bill No. 80, entitled " An Act to authorize A. G. Floweree, his heirs and assigns, to keep, maintain and operate a ferry across the Missouri river."

Also, House Bill No. 79, entitled "An Act to incorporate the Montana Hydraulic and Mining Company."

Also, House Bill No. 28, entitled "An Act authorizing Samuel Bressler, Robert Hedge, their associates, heirs and assigns, to construct and maintain a toll road from Virginia City, in Madison county, to Sterling, in Hot Springs District."

Also, Joint Resolution No. 5.

Also, House Bill No. 83, entitled "An Act allowing John M. Castner compensation for boarding certain prisoners."

GREEN CLAY SMITH.

The amendments of the Council to H. B. No. 76 were concurred in, and the bill ordered engrossed for enrollment.

Sergeant-at-Arms was instructed to bring Mr. Donegan into the House.

H. J. R. No. 7 was read third time, and passed.

The following message was received from the Governor :

EXECUTIVE OFFICE, VIRGINIA CITY, M. T., }  
Dec. 15, 1866. }

*Gentlemen of the House of Representatives :*

I have just received a resolution from the House, requesting me to return House Bill No. 43.

House Bill No. 43 was presented to me yesterday, and, after examination, I signed and approved the same.

The bill was withdrawn last night by Mr. Donegan, of the House, for the purpose of copying, as I was informed. It is now in his possession.

GREEN CLAY SMITH. .

C. B. No. 62 read first and second time, rule suspended, and the bill read the third time and passed.

Journal of yesterday read and approved.

On motion of Mr. Mayhew, the House adjourned to 2 o'clock, P. M.

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#### AFTERNOON SESSION.

The House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—Quorum present.

Mr. Buck in the chair.

Message from the Governor—

That he did, on the 14th day of December, A. D. 1866, approve

and sign H. B. No. 43, "An Act to incorporate the Virginia City and Nevada Ditch and Fluming Company."

The following message was received from the Council, through Mr. Lovell :

That C. B. No. 77 has passed the Council.

That the House amendments to C. B. No. 16 were concurred in by the Council.

The Committee on Enrollment reported that H. J. R. No. 5 and H. B. No. 83 were correctly enrolled.

On motion of Mr. Smith, Mr. Donegan was required to furnish forthwith H. B.  $\frac{3}{4}$  No. 43.

On motion of Mr. Mimms, a Committee of two was appointed to wait upon the Governor, and inform him that the House would adjourn at 4 o'clock.

Messrs. Mimms and Johnson were appointed on the part of the House.

C. B. No. 77 read first and second time, and Mr. McCullough moved to indefinitely postpone the bill.

On motion of Mr. Van Hagan, the motion to postpone was laid on the table.

The bill was then read for information.

Rules suspended, read the third time by its title, and put upon its final passage.

Read third time, and passed.

Mr. McCullough offered the following resolution :

*Resolved*, That the members of the House of Representatives tender to A. H. Barret, Chief Clerk ; J. K. Duke, Assistant Clerk ; Robert Hedges, Engrossing Clerk ; — McCaleb, Enrolling Clerk ; also, to C. L. Craig and E. S. Calhoun, as Clerks ; and to Masters Albert Crow and Douglas Andrews, Pages ; also,

to Rocky Thomas, Sergeant-at-Arms; to Wm. Deascey, Door-keeper, and to Edward Woods, Fireman, our thanks for the punctual and gentlemanly manner in which they have performed their duties, respectively, during this session of the Legislature.

Adopted.

Also, the following resolution :

*Resolved*, By the House of Representatives, that we tender to the Hon. A. E. Mayhew, Speaker of this House, our sincere thanks for the very able and impartial manner in which he has performed the arduous duties of this honorable position during the third session of the Montana Legislature. {May he ever receive the many marks of kindness and gratitude so justly due him from the members of this Assembly.

H. B. No. 31 was ordered enrolled.

Communication from the Council—

That C. J. R. No. 15 had passed.

C. J. R. No. 15 read first time and rejected.

H. J. R. No. 5 was ordered enrolled.

The following communication was received from the Governor :

*To the Hon. House of Representatives :*

I have this day signed the following bills :

House Bill No. 66, "An Act to authorize Samuel Weir and his associates to construct and maintain a bridge or ferry across the Madison river, near the mouth of the same."

Also, House Bill No. 76, "An Act to authorize John Culver and L. H. Warren, their associates, heirs and assigns, to establish and maintain a ferry on the Yellowstone river.

The following report was made by the Committee on Enrollment :

MR. SPEAKER—Your Committee on Enrollment have examined House Joint Resolution No. 7, and find it correctly enrolled.

Message from the Governor—

That he has approved House Bill No. 31, entitled "An Act to incorporate the Fairbanks Town Company."

Also, H. J. R. No. 7.

Mr. Mimms made the following report :

MR. SPEAKER—Your Committee, on the part of the House, appointed to wait upon the Governor, and inform him that the House will adjourn at 4 o'clock, P. M., this day, have performed their duty, and were informed by the Governor that he has no further communication to make to the House.

Report of Committee on Enrollment, as follows :

Your Committee on Enrollment have examined House Bill No. 81, and report the same correctly enrolled.

House adjourned *sine die*.

A. E. MAYHEW,  
*Speaker.*

A. H. BARRET,  
*Chief Clerk.*

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HOUSE OF REPRESENTATIVES,  
VIRGINIA CITY, M. T., December 15, 1866. }

We hereby certify that the foregoing is a complete journal of the proceedings of the House of Representatives of the Third Legislative Assembly of the Territory of Montana.

A. E. MAYHEW,  
*Speaker of the House.*

A. H. BARRET,  
*Chief Clerk.*





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# COUNCIL JOURNAL

OF THE

## THIRD SESSION

OF THE

# LEGISLATIVE ASSEMBLY

OF THE

## TERRITORY OF MONTANA,

BEGUN AND HELD AT VIRGINIA CITY, THE CAPITAL OF SAID  
TERRITORY, ON MONDAY, NOVEMBER 5, A. D. 1866,  
AND CONCLUDED DECEMBER 15, A. D. 1866.

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C. C. MENAUGH, *Engrossing Clerk.*

HENRY CATLETT, *Doorkeeper.*

# COUNCIL JOURNAL.

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## THIRD SESSION.

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### FIRST DAY.

VIRGINIA CITY, MONTANA TERRITORY, }  
November 5, 1866. }

In accordance with the proclamation of His Excellency Green Clay Smith, Governor of the Territory of Montana, calling the Legislative Assembly to convene at the capital of said Territory on the fifth day of November, A. D. 1866, and the following gentlemen being present, in the room furnished by the Hon. Secretary of the Territory, Thomas Francis Meagher, as the Council Chamber, to wit:

Charles S. Bagg, A. A. Brown, William H. Chiles, J. E. Galloway, T. J. Lowry, Mark A. Moore, Sample Orr, E. F. Phelps, J. G. Spratt, David Tuttle, E. B. Waterbury, E. S. Wilkinson, and G. G. Wilson.

The Hon. Thomas Francis Meagher, Secretary of the Territory, called the Council to order, and instructed them to organize according to law.

Whereupon, on motion of E. B. Waterbury, E. S. Wilkinson was appointed temporary Chairman, and William Y. Lovell, temporary Secretary, and J. B. Caven, as temporary Sergeant-at Arms.

Whereupon, a temporary organization having been effected, the members elect of the Council were duly sworn to a discharge of their duties, by William Y. Lovell, probate judge of Madison county.

On motion of E. B. Waterbury, the Council proceeded to the election of a President of the Council of the Third Legislative Assembly.

On motion of E. B. Waterbury, Charles S. Bagg was unanimously declared elected to the office of President of the Council of the Third Legislative Assembly.

On motion of William H. Chiles, a Committee of three was appointed to inform his Honor Charles S. Bagg, of his election to the office of President, and to conduct him to the chair.

Whereupon, the President *pro tem.* appointed Wm. H. Chiles, E. B. Waterbury, and Sample Orr, such Committee, who proceeded at once to the discharge of their duties.

Whereupon, Charles S. Bagg accepted and assumed the duties and responsibilities of President of the Council, and by a forcible and eloquent address, signified his acceptance of said office.

On motion of E. B. Waterbury, the Council proceeded to the election of a Chief Clerk.

On motion of E. B. Waterbury, William Y. Lovell was nominated for said office, and by acclamation was unanimously declared elected to the office of Chief Clerk of the Third Legislative Assembly.

On motion of William H. Chiles, the Council proceeded to the election of Assistant Clerk.

On motion of Mark A. Moore, Charles V. D. Lovejoy was nominated for the office of Assistant Clerk.

James G. Spratt nominated Samuel Bressler. Wm. H. Chiles nominated J. S. Slater. E. S. Wilkinson nominated J. A. Inslee. ——— nominated F. G. Heldt.



The ballots having been counted, Charles V. D. Lovejoy having received a majority of all the votes, was declared by the chair duly elected as Assistant Secretary.

On motion of Wm. H. Chiles, the Council proceeded to the election of an Enrolling Clerk.

E. B. Waterbury nominated F. W. A. Cunningham. Wm. H. Chiles nominated Robert Hedges.

Whereupon, a ballot was had, and F. W. A. Cunningham receiving the highest number of votes, was declared by the President duly elected to the office of Enrolling Clerk.

On motion of James G. Spratt, the Council proceeded to the election of an Engrossing Clerk.

Whereupon, James G. Spratt nominated C. C. Menaugh. Wm. H. Chiles nominated F. A. Shields. T. J. Lowry nominated R. B. Luck.

Whereupon a ballot was had, and C. C. Menaugh having the highest number of votes, was by the President declared duly elected to the office of Engrossing Clerk.

On motion of E. B. Waterbury, the Council proceeded to the election of Sergeant-at-Arms.

Whereupon, E. B. Waterbury nominated J. B. Caven. E. S. Wilkinson nominated Harris Gilman. William H. Chiles nominated S. H. Hurst.

J. B. Caven having received the highest number of votes, was by the President declared duly elected to the office of Sergeant-at-Arms.

On motion of James G. Spratt, the Council proceeded to the election of a Doorkeeper.

Whereupon, E. B. Waterbury nominated Sylvester Chamberlain, Wm. H. Chiles nominated Henry Catlett. Mark A. Moore nominated Wm. Norwood.

The ballot being counted, and Henry Catlett having received the highest number of votes, was by the President declared duly elected to the office of Doorkeeper.

On motion of Mark A. Moore, the Council proceeded to the election of a Fireman.

Whereupon Mark A. Moore nominated Sylvester Chamberlain.

There being no other nominations, the Council proceeded *viva voce*, to the election of a Fireman.

Whereupon, the President declared Sylvester Chamberlain unanimously elected by acclamation, to the office of Fireman.

On motion of E. S. Wilkinson, the Council proceeded to the election of a Page.

Whereupon, John Daly, Percy Johnson, and Marshal Orr were nominated.

John Daly having received the largest number of votes, was by the President declared duly elected to the office of Page.

On motion of E. S. Wilkinson, it was—

*Resolved*, That a Committee of three be appointed to notify the House of Representatives of the complete and perfect organization of the Council, and of their willingness to confer and act with them in any matter pertaining to the interest of the Territory.

Whereupon, the President appointed Messrs. Wilkinson, Waterbury, and Orr, as such Committee.

On motion of Wm. H. Chiles, it was—

*Resolved*, That a Committee of three be appointed to draft rules for the government of the Council.

Whereupon, the President appointed Messrs. Chiles, Waterbury, and Phelps, as such Committee.

On motion of Mark A. Moore, the Council adjourned until 10 o'clock, A. M., Nov. 6, 1866.

CHARLES S. BAGG,

*President.*

WM. Y. LOVELL,

*Chief Clerk.*

## SECOND DAY.

NOVEMBER 6, 1866.

Council met at 10 o'clock, A. M., pursuant to adjournment. Mr. President in the chair.

Roll called—absent, D. Tuttle.

Quorum present.

The Journal of previous day was read and approved.

Whereupon the President announced the following Standing Committees:

*Ways and Means*—Messrs. E. B. Waterbury, A. A. Brown, and G. G. Wilson.

*Judiciary*—Messrs. James G. Spratt, E. S. Wilkinson, and E. F. Phelps.

*Internal Improvements*—Messrs. David Tuttle, Mark A. Moore, and Sample Orr.

*Public Lands*—Messrs. Mark A. Moore, A. A. Brown, and Wm. H. Chiles.

*Federal Relations*—Messrs. Sample Orr, T. J. Lowry, and Jas. G. Spratt.

*Education*—Messrs. Wm. H. Chiles, T. J. Lowry, and J. E. Galloway.

*Towns and Counties*—Messrs. G. G. Wilson, J. E. Galloway, and David Tuttle.

*Military Affairs*—Messrs. T. J. Lowry, Mark A. Moore, and Wm. H. Chiles.

*Incorporations*—Messrs. A. A. Brown, E. F. Phelps, and E. B. Waterbury.

*Agriculture*—Messrs. Mark A. Moore, David Tuttle, and Sample Orr.

*Elections*—Messrs. J. E. Galloway, T. J. Lowry, and Wm. H. Chiles.

*Indian Affairs*—Messrs. T. J. Lowry, A. A. Brown, and Mark A. Moore.

*Mines and Minerals*—Messrs. J. E. Galloway, E. S. Phelps, and James G. Spratt.

*Engrossment*—Messrs. E. F. Phelps, Wm. H. Chiles, and G. G. Wilson.

*Enrollment*—Messrs. Wm. H. Chiles, E. B. Waterbury, and E. S. Wilkinson.

*Printing*—Messrs. E. S. Wilkinson, G. G. Wilson, and A. A. Brown.

The following resolution was offered and adopted by the Council :

*Resolved*, That one hundred copies of the Standing Committees be printed for the use of the Council.

On motion of Jas. G. Spratt, the following resolution was adopted by the Council :

*Resolved*, That the editors and reporters of the public newspapers of this Territory be invited to seats within the bar of this House, and that they be furnished with all accommodations necessary to enable them to report the proceedings thereof.

On motion of Mr. Galloway, the following resolution was adopted by the Council :

*Be it resolved, by the Legislative Council*, That a Committee of three be appointed to wait upon the Hon. Thomas Francis Meagher, Secretary of the Territory, for the purpose of learning what number of newspapers each member is entitled to, and what arrangements, if any, have been made with express agents or postmasters for the transmission of mail matter for the use of this body.

Wm. H. Chiles, chairman of the Select Committee on Rules, made the following report :

MR. PRESIDENT—Your Select Committee, appointed for the

purpose of preparing rules for the government of the Council, would respectfully recommend the following for adoption.

WM. H. CHILES,

E. F. PHELPS,

E. B. WATERBURY,

*Committee.*

## COUNCIL RULES.

No. 1. *President.*—The President shall take the chair at the time to which the Council stands adjourned, and the Council shall then be called to order, roll called, and the names of the absentees shall be entered upon the journal of the Council.

No. 2. *Quorum.*—Upon the appearance of a quorum, the journal of the preceding day shall be read by the Clerk, and any mistake therein may be corrected by the Council.

No. 3. *Order.*—The President shall preserve order and decorum, and shall decide questions of order, subject to an appeal to the Council.

No. 4. *President shall vote.*—The President shall vote on all questions taken by yeas and nays, (except upon appeals from his own decision,) and in all elections and divisions called for by any member.

No. 5. *Members shall remain seated.*—When the Council adjourns, the members shall keep their seats until the President announces the adjournment.

No. 6. *Proper decorum.*—Every member, previous to his speaking, shall rise from his seat, and respectfully address himself to the President.

No. 7. *Two or more.*—When two or more members rise at once, the President shall designate the member who is first to speak; but in all cases the member who shall first rise and address the chair shall speak first.

No. 8. *Not to speak more than twice.*—No member shall speak more than twice on the same subject, without leave of the Coun-

cil ; nor more than once until every member choosing to speak on the question pending shall have spoken.

No. 9. *Motions to be seconded.*—No motion shall be debated or put unless the same shall be seconded ; it shall be stated by the President, and any such motion shall be reduced to writing, if the President or any member shall desire it.

No. 10. *Motions in possession of the Council.*—After any motion shall be stated by the President, it shall be in possession of the Council, but may be withdrawn at any time before amendment or decision ; but all motions, resolutions or amendments shall be entered upon the journal, whether they are rejected or adopted.

No. 11. *Debate.*—When a question is under debate, no motion shall be received but to adjourn, to lay on the table, for the previous question, to postpone indefinitely, to postpone to a certain day, to commit or to amend, which several motions shall have precedence in the order in which they stand arranged, and a call of the Council may be had upon the demand of two members.

No. 12. *Adjournment.*—A notice to adjourn shall always be in order, except when a member is addressing the chair or a vote being taken. That, and the motion to lay on the table, shall be received without debate. ]

No. 13. *Previous Question.*—The previous question shall be in this form : “ Shall the main question be now put ? ” It shall only be admitted when demanded by a majority of the members present, and its effect shall be to put an end to all debate, and bring the Council to a direct vote upon the amendments reported by a committee, if any, upon pending amendments, and then upon the main question. On a motion for the previous question, and prior to the seconding of the same, a call of the Council shall be in order ; but after a majority shall have seconded such motion, no call shall be in order prior to a decision of the main question.

No. 14. *Same.*—When the previous question is decided in the negative, it shall leave the main question under debate for the residue of the sitting, unless sooner disposed of, taking the question, or in some other manner.



No. 15. *Incidental Questions.*—All incidental questions of order arising after a motion is made for the previous question, during the pending of such a motion, or after the Council shall have determined that the main question shall now be put, shall be decided, whether on appeal or otherwise, without debate.

No. 16. *Petitions.*—Petitions, memorials, and other papers, addressed to the Council, may be presented by the President, or by a member.

No. 17. *Voting.*—Every member who shall be present before the vote is declared from the chair, and no other, shall vote for or against the same, unless the Council shall excuse him, or unless he is immediately interested in the question, in which case he shall not vote.

No. 18. *When the Question is being put.*—When the President is putting the question, no member shall walk out or across the hall, nor when a member is speaking shall any person entertain any private discourse, or pass between him and the chair.

No. 19. *Several Points.*—If the question in debate contains several points, any member may have the same divided.

No. 20. *Members called to order.*—A member called to order shall immediately sit down, unless permitted to explain; and the Council, if appealed to, shall decide the case. If there be no appeal, the decision of the chair shall be submitted to. On an appeal no member shall speak more than once without leave of the Council, except when a member is called to order for offensive language, in which case there shall be no debate.

No. 21. *Introduction of Bills.*—Every bill shall be introduced by a motion for leave, or by an order of the Council, or on a report of a committee, and one day's notice at least shall be given of a motion for leave to bring in a bill, unless two-thirds of the members present shall vote in favor of its being brought in without such previous notice. Every notice for leave to bring in a bill (and every notice to bring in a bill) shall be in writing, and shall contain the title of the bill.

No. 22. *Bills indorsed.*—Every bill before being introduced shall have indorsed thereon the title of the same, and every bill and resolution shall have thereon the name of the member introducing it, and when ordered by a committee the name of such committee shall be indorsed thereon.

No. 23. *Bills to be read.*—All bills, memorials, or joint resolutions, shall be read at length the first time for information, and if opposition be made to it, the question shall be—Shall this bill be rejected? If no opposition is made, or if the motion to reject be lost, the bill shall go to its second reading without a question.

No. 24. *Second Reading.*—All bills, memorials, or joint resolutions, on their second reading, shall be read by their title, and the question taken upon their commitment, amendment, or engrossment for a third reading.

No. 25. *Third Reading.* All bills, memorials, or joint resolutions, on their third reading, shall be read at length, and no amendment shall be in order, except by the unanimous consent of the Council.

No. 26. *Second and third Reading.*—All bills shall be read three times before their final passage, and may be read twice on the day of presentation, unless otherwise ordered; and no bill shall be passed unless it shall have been read once at length.

No. 27. *No Amendment.*—No motion or proposition on a subject different from that under consideration shall be admitted under color of an amendment. No bill or resolution shall at any time be amended by annexing thereto, or incorporating therewith, any other bill or resolution pending before the Council.

No. 28. *Committee of the Whole.*—In forming a Committee of the Whole the President shall appoint a chairman to preside.

No. 29. Bills committed to the Committee of the whole Council shall, in the Committee of the Whole thereon, be first read

through, unless the Committee shall otherwise order, and then be read and debated by sections, leaving the title to be last considered. All amendments shall be made in writing, and reported to the Committee by the chairman.

No. 30. *Questions in Committee of the Whole.*—All questions, whether in Committee or in Council, shall be put in the order they are moved, except in cases of privileged questions, and in filling up blanks, the largest sum and longest time shall be put first.

No. 31. *Same mode.*—A similar mode of proceeding shall be observed with bills which have originated in and passed by the House, as with bills originating in the Council, except they shall not be printed.

No. 32. *Reconsideration.*—No motion for reconsideration shall be in order unless on the same day or the day following that on which the decision proposed to be reconsidered took place, nor unless one of the majority shall move such reconsideration.

No. 33. *Motion to reconsider.*—When the notice of the intention to move the reconsideration of any bill or joint resolution shall be given by a member, the Clerk of the Council shall retain the said bill or joint resolution until after the time during which the said motion can be made, unless the same can be previously disposed of.

No. 34. *Who shall move for a Reconsideration.*—Any member that votes on that side of the question that prevailed, may be at liberty to move a reconsideration, and a motion for a reconsideration shall be decided by a majority of votes.

No. 35. *When lost.*—In all cases when the Council shall be equally divided, the question shall be lost.

No. 36. *Council Rules observed in Committee of the Whole.*—The rules of the Council shall be observed in Committee of the whole Council so far as may be applicable, except that yeas and nays shall not be called, the previous question enforced, nor the time of speaking limited.

No. 37. *Committee rise*.—A motion that the Committee rise shall always be in order, and shall be decided without debate.

No. 38. *Standing Committees*.—Standing Committees, consisting of three members each, shall be appointed on the following subjects :

- 1st. Ways and Means.
- 2nd. Judiciary.
- 3rd. Internal Improvements.
- 4th. Public Lands.
- 5th. Federal Relations.
- 6th. Education.
- 7th. Towns and Counties.
- 8th. Military Affairs.
- 9th. Incorporations.
- 10th. Agriculture and Manufactures.
- 11th. Elections.
- 12th. Indian Affairs.
- 13th. Mines and Minerals.
- 14th. Engrossment.
- 15th. Enrollment.
- 16th. Printing.

No. 39. *Engrossment*.—The Committee on Engrossment shall examine all bills after they are engrossed, and report the same to the Council (correctly engrossed) before the third reading. Said Committee may report at any time.

No. 40. *Enrollment*.—The Committee on Enrollment shall examine all Council bills and joint resolutions which have passed the two Houses, and when reported correctly enrolled, they shall be presented to the presiding officers of the Council and House for their signatures, and when so signed, go to the Governor for his approval. Said Committee may report at any time.

No. 41. *Select Committees*.—Select Committees to whom reference shall be made, shall in all cases report a state of facts, and their opinion thereon, to the Council.

No. 42. In all cases where a bill, order, or resolution, or motion, shall be entered on the journal of the Council, the name of the member moving the same shall be entered on the journal.

No. 43. *Persons admitted within the Bar.*—No person shall be admitted within the bar of the Council but the executive members of the Council, Territorial Treasurer and Auditor, Judges of the Supreme Courts and District Courts, and such other persons as the Council may deem proper to admit.

No. 44. *Clerk to make a List of Bills.*—The President of the Council shall cause the Clerk of the Council to make a list of all bills, resolutions, reports of committees, and other proceedings of the Council, which are committed to a committee of the whole Council, and which are not made the order of the day for any particular day, and to number the same; which list shall be called "the general order of the day," and they shall be taken up in the order in which they are numbered, unless otherwise ordered by a majority of the Council. And the Clerk shall also keep a book showing the situation and progress of bills.

No. 45. *President to announce the Order of the Day.*—On the meeting of the Council, after reading the journal of the preceding day, the order of business for the day shall be as follows:

- 1st. Presentation of Petitions.
- 2nd. Reports of Standing Committees.
- 3rd. Reports of Select Committees.
- 4th. Notices.
- 5th. Introduction of Bills.
- 6th. Motions and Resolutions.
- 7th. Consideration of Messages from the House.
- 8th. Reading of House Bills, Resolutions, and Memorials.
- 9th. Third reading of the same.
- 10th. Third reading of the Council Bills.
- 11th. Consideration of the General Orders.
- 12th. Unfinished business.



No. 46. *Several Motions.*—Whenever the report of any Committee of Conference contains several modifications or amendments, any member may have the same divided, and the question of concurrence taken separately upon each modification or amendment.

No. 47. *General Orders.*—When the Council has arrived at the general order of the day, they shall go into a Committee of the Whole upon such orders, or particular order designated by a vote of the Council, and no other business shall be in order until the whole are considered, or passed, or the Committee rise; and unless a particular bill is ordered up, the Committee of the Whole shall consider, act upon, or pass upon the general orders according to the order of their references.

No. 48. *President may leave the Chair.* — The President may leave the chair, and appoint a member to preside, but not for a longer time than one day, except by leave of the Council.

No. 49. *Parliamentary Practice.*—The rules of parliamentary practice embraced in Jefferson's Manual shall govern the Council in all cases where they are applicable, and in which they are not inconsistent with the standing rules and orders of the Council and the joint rules and orders of the Council and the House.

No. 50. *Suspend, alter, or amend.*—No rule of the Council shall be suspended, altered, or amended, without the consent of two-thirds of the members present.

No. 51. *Time of meeting.*—The hours of daily meeting of the Council shall be 10 o'clock in the morning, until the Council directs otherwise.

No. 52. *Yeas and Nays.*—The yeas and nays shall not be ordered unless demanded by a member, except on the final passage of bills, joint resolutions, and resolutions making appropriations of money, in which cases the yeas and nays shall be had without demand.

[No. 53. *Printed.* All Council bills of a general nature shall, after their second reading, be printed without special orders from the Council.

No. 54. *Memorials to Congress.*—All orders, joint resolutions and memorials to Congress, after they shall have passed both Houses, shall be carefully enrolled, signed by the Speaker of the House and President of the Council, and forthwith be transmitted by the Chief Clerk of the respective Houses in which they originated, to the President of the Senate, the Speaker of the House of Representatives in Congress, and also to our delegate in Congress.

No. 55. *Substitutes.*—Any Standing Committee of the whole House may recommend a substitute for any bill referred to them, originating in the Council, which substitute shall retain the number and title of the original bill; on the offering of such substitute, the vote shall be taken, Shall the substitute be adopted? If the motion prevails, the substitute shall be considered instead of the original bill, and the original bill shall be rejected.

On motion of James G. Spratt, the report of the Committee was received, and the Committee discharged.

On motion of J. G. Spratt, the report of the Committee was adopted, and fifty copies ordered to be printed.

Wm. H. Chiles moved, that a Committee of three be appointed to inform the House that they will meet the House in Joint Convention, to hear or receive any communication His Excellency the Governor may see fit to make.

Adopted.

Whereupon, the chair appointed Messrs. Chiles, Galloway, and Lowry, such Committee.

A communication from the Hon. Secretary of the Territory, Thomas Francis Meagher, was received, read, and referred to the Committee on Printing.



Wm. H. Chiles gave notice, that he would, on to-morrow or some subsequent day, introduce a bill entitled "An Act to regulate and license foreign miners."

On motion of E. B. Waterbury, the Council took a recess until half past one.

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#### AFTERNOON SESSION.

The President called the Council to order.

Roll called—All present.

The President announced the Committee upon the resolution of Mr. Galloway, in the morning, relative to mail matter and newspapers, to consist of Messrs. Galloway, Childs, and Moore.

The Committee to inform the House of the readiness of the Council to meet them, report as follows:

Your Committee appointed to inform the House that it, the Council, would meet the House in Joint Convention at 2 P. M. this day, have performed their duty, and ask to be discharged.

WM. E. CHILES,  
J. E. GALLOWAY,  
T. J. LOWRY,

*Committee.*

Report accepted, and Committee discharged.

The Committee on Printing, through their chairman, E. S. Wilkinson, ask leave to make the following special report:

Your Committee, to whom the resolution was referred, ordering the proceedings of each day's business to be printed, having given

the subject that consideration its importance seemed to demand, recommend that the Chief Clerk of the Council furnish to the Public Printer a copy of the minutes of the proceedings each day; that the morning's proceedings be made up as soon as possible after the adjournment at noon; and those of the evening session as soon as possible after the adjournment, so that the printer may be enabled to have slips printed and laid on the table of each member on the assembling of the Council in the morning.

Report received, and adopted, and the Chief Clerk requested by the Council to comply with resolution in furnishing the public printer as therein stated.

The following resolution was offered by Wm. H. Chiles, and unanimously adopted:

*Resolved*, That the ladies of this city be and are hereby respectfully invited to attend the deliberations of the Council and occupy seats within the bar.

James G. Spratt gave notice, that on to-morrow or some future day, he would introduce "An Act entitled an act in relation to contracts, bonds, bills of exchange and promissory notes."

E. B. Waterbury gave notice, that on to-morrow or at an early day, he would ask leave to introduce "An Act concerning corporations, commonly known as the General Incorporation Act."

Whereupon the Council adjourned to meet the House in Joint Convention at 2 P. M.

Upon the adjournment of the Joint Convention, the Council met in their Hall and was called to order by the President.

Roll called—all present.

William H. Chiles offered the following resolution:

*Resolved*, That one thousand copies of the Governor's message be printed for the use of the Council.

E. B. Waterbury moved to amend the resolution by striking out "one thousand" and inserting "five hundred."

A vote being taken on the amendment, it was declared by the President—Lost.

A vote was then taken upon the original resolution, and it was declared by the chair adopted, and one thousand copies ordered to be printed for the use of the Council.

On motion of Mark A. Moore, it was ordered that a Committee of three be appointed on the part of the Council to confer with a Committee on the part of the House, and recommend for adoption, a series of joint rules for the government of joint conventions and any intercourse necessary between the two Houses.

Whereupon, the chair appointed as such Committee, Mark A. Moore, E. F. Phelps, and A. A. Brown.

James G. Spratt offered the following resolution :

*Resolved*, By the Council, the House concurring, that a Committee of two from the Council and three from the House be appointed, whose duty it shall be to consider the propriety of adopting a civil practice act for this Territory.

Adopted.

On motion of Mr. Spratt, the vote on the adoption of the resolution was reconsidered.

On motion of Mr. Chiles, the rules were suspended, and leave given to introduce the resolution.

On motion, the resolution was read for the first time:

On motion, the resolution was read second time by its title.

On motion, the resolution passed its third reading, and was passed by the following vote :

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Moore, Orr, Phelps, Spratt, Tuttle, Wilkinson, and Wilson—11.

*Nay*—Mr. Waterbury.

On motion of E. B. Waterbury, it was resolved that the Council elect another Page.

On motion of E. B. Waterbury, Marshal Orr was nominated to the office of Page, and unanimously elected.

On motion of Mark A. Moore, the Council adjourned to meet to-morrow morning, at 10 o'clock.

CHARLES S. BAGG,

*President,*

WM. Y. LOVELL,

*Chief Clerk,*

## THIRD DAY.

NOVEMBER 7, 1866.

[ ] Council called to order by the President.

Roll called—absentees, E. F. Phelps and J. G. Spratt.

The record of yesterday read, corrected and approved.

E. S. Wilkinson, chairman of the Committee on Printing, reported as follows:

The communication from the Hon. Thomas Francis Meagher, Secretary of the Territory, to the President of the Council, on the subject of the distribution of newspapers among the members of the Council, having been referred to this Committee, and the Secretary having communicated verbally to the Committee on the subject, the Committee is authorized to report that provision has been made for the distribution of six copies each of the "Montana Democrat" and "The Rocky Mountain Gazette" to each member of the Council, every week during the present session of the Legislature of Montana Territory.

E. S. WILKINSON,

G. G. WILSON,

A. A. BROWN,

*Committee.*

Adopted.

Mr. Wilkinson gave notice of the following bill:

I will, on to-morrow or some subsequent day, introduce "A bill to repeal an act of the Legislature which authorizes the county collector to receive territorial scrip for county taxes."

Mr. Wilkinson also gave notice that he would, on to-morrow or some subsequent day, introduce "A bill authorizing the Territorial Treasurer to receive from the treasurer of Edgerton county the amount of territorial scrip received from his predecessor in office, in payment of county taxes, through a mistaken construction of the law."

Mr. Wilkinson also gave notice that he would, on to-morrow or some subsequent day, introduce "A bill to repeal that part of the act which requires the county commissioners of the different counties in this Territory to pay jurors in civil cases."

Mr. Chiles gave notice that he would, on to-morrow or some subsequent day, introduce a bill entitled "An Act concerning landlord and tenant."

Mr. Phelps gave notice that he would, on to-morrow or some subsequent day, introduce a bill entitled "Of fences and fence reviewers."

Mr. Chiles introduced C. B. No. 1, entitled "An Act to regulate and license foreign miners."

Bill read, and passed to its second reading.

Read by its title.

On motion of Mr. Spratt, it was referred to the Committee on Mines and Minerals.

Mr. Chiles offered a resolution that the Council go into a Committee of the whole House to take into consideration the Governor's Message, at 2 P. M.

The following resolution was received from the House :

*Resolved*, by the House of Representatives, the Council concurring, That we tender to Gen. T. F. Meagher, Secretary of the Territory of Montana, our sincere thanks for the commodious, comfortable and neat style in which he has fitted up and furnished the halls for the reception of the members of the Legislative Assembly, and the public generally.

On motion of Mr. Waterbury, the above resolution was concurred in by the Council.

Mr. Galloway, chairman of the Committee to confer with the Secretary of the Territory on printing and postal arrangements, made the following report :

Your Committee, appointed to wait upon the Hon. Secretary of the Territory, and ascertain the number of newspapers, amount of postage, etc., he would supply the members of the Council, beg leave to submit the following report, viz. :

Your Committee have called upon the Hon. Secretary, and been informed that he will furnish each member of the Council six (6) copies of the Rocky Mountain Gazette, and six (6) copies of the Montana Democrat, and possibly a few copies of some newspapers published in Missouri and California. The postal arrangements would be the same as last session. That he will endeavor to make arrangements with Express companies for the benefit of such members who have not postal facilities.

All of which is respectfully submitted.

J. E. GALLOWAY,  
WM. H. CHILES,  
MARK A. MOORE,  
*Committee.*

On motion of Mr. Waterbury, the report was received, and Committee discharged.

The chair announced as Committee from the Council to confer with Committee from the House, on the Civil Practice Act, Messrs. Spratt, Brown and Waterbury.

Mr. Orr gave notice that he would, on to-morrow or some subsequent day, introduce a bill entitled "An Act to define the judicial districts of this Territory, appoint the time and place for holding courts in the several districts, assigning the several judges to said districts, and limiting the jurisdiction of all the courts provided by the Organic Act creating the Territory of Montana."



Mr. Orr offered the following resolution :

*Resolved*, That each member of the Council be allowed to select six (6) copies per week of any papers published in the Territory. The number of each paper desired, to be designated by the member to the Secretary of the Territory.

Adopted.

On motion of Mr. Galloway, the Council took a recess until 2 P. M.

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#### AFTERNOON SESSION.

The President called the Council to order at 2 P. M.

Absentees—J. G. Spratt and E. B. Waterbury.

The special order for 2 o'clock being, by previous resolution, the consideration of the message of the Governor, the Council resolved itself into a Committee of the Whole, the President appointing Wm. H. Chiles chairman of the Committee.

After which the Committee arose, and made the following report :

The Committee of the Whole, having had under consideration the Governor's Message, would make the following report, and recommend that the portion of the message in reference to the Superintendent be referred to the Committee on Education, down to the end of paragraph ending with the words "Governor and Auditor." That portion in reference to finances, down to the end of paragraph ending with the words "and important purposes," be referred to the Committee on Ways and Means. That portion in reference to the amending of the law authorizing the assessment of property, be referred to the Committee on Judiciary, to the end of the paragraph ending with the words "derelict in

duties." That portion in relation to Choteau county, be referred to the Committee on Towns and Counties, to the end of the paragraph ending with the words "officers of the Territory." That portion in relation to unregistered territorial scrip, be referred to Committee on Ways and Means. That portion in relation to memorializing Congress for Surveyor General, be referred to Committee on Public Lands. That portion in reference to memorializing Congress on behalf of the railroad, be referred to the Committee on Internal Improvements. That portion in relation to mails, be referred to Committee on Federal Relations. That portion in relation to Indian depredations, be referred to Committee on Indian Affairs. That portion in relation to Agriculture, be referred to Committee on Agriculture and Manufactures.

WM. H. CHILES, *Chairman.*

The report was received and adopted.

On motion of Mr. Moore, the Council adjourned to 10 o'clock  
A. M., Nov. 8th.

CHAS. S. BAGG,  
*President.*

W. Y. LOVELL,  
*Chief Clerk.*

## FOURTH DAY.

NOVEMBER 8, 1866

Council called to order by the President.

Roll called—absentees, Wm. H. Chiles and Mark A. Moore.

The record of yesterday was read, corrected and approved.

Mark A. Moore, chairman of Committee on Joint Rules, reported as follows:

MR. PRESIDENT—Your Committee, appointed to act with House Committee on Joint Rules, beg leave to report the following rules, as adopted by the Joint Committee, with the recommendation that they be adopted by the Council.

All of which is respectfully submitted.

MARK A. MOORE, *Chairman.*

*Joint Rules of Council and House, adopted at the Third Session of the Montana Legislature.*

No. 1. In any case of disagreement between the two Houses, if either House request a conference, and appoint a Committee for that purpose, the other House shall appoint a Committee to confer therewith upon the subject of their disagreement. They shall meet at a convenient time, to be agreed upon by their chairmen, and, having conferred freely, each shall report to their respective Houses the result of their conference.

No. 2. When a message shall be sent from either House to the other, it shall be announced at the door of the House to which it is sent, by the Doorkeeper thereof, and shall be respectfully communicated to the chair by the person by whom it is sent.

No. 3. All messages between the two Houses shall be communicated by the Secretary or Chief Clerk, or their respective assistants.

No. 4. When a bill shall have passed both Houses, it shall be duly enrolled by the Enrolling Clerk of the House in which it originated; and the fact of its origin shall be certified by the indorsement of the Secretary or Clerk thereof.

No. 5. When bills are enrolled, they shall be examined by a Joint Committee of two from the Council, and two from the House of Representatives, who shall be a Standing Committee for that purpose, and who shall carefully compare the enrollment with the engrossed bills as passed in the Houses, correct any errors therein, and make a report thereof forthwith to their respective Houses.

No. 6. After said report, each bill shall be signed, first by the Speaker of the House of Representatives, and then by the President of the Council, in the presence of their respective Houses.

No. 7. After the bill shall have been signed in each House, it shall be presented by said Committee to the Governor for his approval, and they shall forthwith report the day of presentation, which shall be entered upon the journal of the House in which the bill originated.

No. 8. All orders, joint resolutions and memorials to Congress, after they shall have passed both Houses, shall be carefully enrolled, signed by the Speaker of the House and the President of the Council, and forthwith be presented to the Governor for his signature. After receiving his approval they shall be transmitted by the Chief Clerk of the respective Houses in which they originated, to the President of the Senate and Speaker of the House of Representatives, and also a copy to our Delegate in Congress.

No. 9. When any bill, joint resolution or memorial which shall have passed in one House is rejected in the other, notice of said rejection shall be given to the House which has passed the same.

No. 10. When a bill, joint resolution or memorial, which shall have passed one House is rejected in the other, it shall not

be again introduced during the session without five days' notice, and leave of two-thirds of the members voting thereon.

No. 11. Each House shall transmit to the other, with any bill, resolution or memorial, all papers upon which the same shall be founded.

No. 12. When each House shall have adhered to their agreement, a bill or resolution is lost.

No. 13. When any bill or resolution which has passed one House is ordered to be printed by the other, a greater number of copies shall not be printed than is necessary for the use of the House making the order. When any other bill or resolution shall be ordered printed by either House, a sufficient number shall be printed for the use of both Houses.

No. 14. It shall be the duty of the Chief Clerk of the House of Representatives and the Chief Clerk of the Council, when any document, except bills and resolutions, is ordered to be printed in their respective Houses, forthwith to communicate such order to the other House.

No. 15. In all elections in joint convention of both Houses, the names of the members shall be arranged in alphabetical order, and they shall be called upon to vote in the order in which they stand arranged.

On motion of Mr. Spratt, the above report was received and adopted, and the Committee discharged.

A communication from the House was read by the Chief Clerk at the bar of the Council, and filed as "No. 2."

Mr. Galloway gave notice that he would, on to-morrow or some subsequent day, introduce "An Act entitled an act changing the time of assessing the value of real and personal property, and collecting the taxes levied thereon for territorial and county purposes."

Mr. Lowry gave notice that on to-morrow or some early day, he would introduce a bill entitled "An Act prohibiting certain games."

Mr. Brown gave notice of the introduction of a bill entitled "An Act concerning the institution of suits in the district and justices' courts in the Territory of Montana."

Mr. Phelps gave notice of the introduction of a bill entitled "An Act to incorporate the Beaver Head County Gold and Silver Mining and Manufacturing Company."

Mr. Chiles gave notice of the introduction of a bill entitled "An Act authorizing George Humphreys and Wm. Allison to construct a ditch and take water therefor from the waters of the Deer Lodge."

Mr. Wilkinson introduced C. B. No. 2, which was read first and second time by its title, and referred to a Special Committee appointed by the President, to wit: Messrs. Wilkinson, Spratt and Galloway.

Mr. Wilkinson introduced C. B. No. 3, which was read first and second time by its title, and referred to Committee on Judiciary.

Mr. Phelps introduced C. B. No. 4, which was read first and second time by its title.

Whereupon Mr. Chiles moved that the rules be suspended, which was done, and the bill passed to its third reading.

Whereupon the following vote was had :

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Moore, Phelps, Orr, Spratt, Tuttle, Waterbury, Wilkinson, Wilson, and Mr. President—13.

*Nays*—None.

Whereupon the President declared C. B. No. 4 passed by the Council.

Mr. Lowry offered the following resolution :

*Be it resolved by the Council, That the Secretary of the Territory,*



members of the House of Representatives, and all ministers of the Gospel, be admitted within the bar of the Council.

Adopted.

On motion of Mr. Lowry, the Council took a recess until 2 P. M.

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AFTERNOON SESSION.

The President called the Council to order at 2 P. M.

Absent—J. G. Spratt.

Mr. Chiles offered the following resolution :

*Resolved, by the Council, the House concurring,* That the Public Printer be, and is hereby requested hereafter to print the daily proceedings of both Houses on the same slip of paper, so that the same can be placed on the desk of each member for information of the proceedings of each House.

*Resolved, further,* That the Chief Clerk of each House be not required to report notices of bills nor any other matter than the final disposition of bills, joint resolutions and memorials, and the proceedings connected therewith.

Adopted.

Mr. Waterbury moved that the Committee on Printing be instructed to request the Public Printer to exclude all advertisements and foreign matter from the published proceedings of the Council. Adopted.

Mr. Brown gave notice that he would, on to-morrow, or as soon thereafter as convenient, introduce "A Bill concerning jurors in



civil actions in the district and justices' courts in the Territory of Montana."

Mr. Wilson gave notice that he would, on to-morrow or some subsequent day, introduce a bill entitled "An Act to amend an act defining the duties of the county treasurer, and the payment of county warrants, passed at the second session of the Legislature, 1866."

Mr. Chiles moved to amend Rule 32, by striking out of the second line, the words "or the day following." Lost.

The President called Mr. Orr to the chair.

Mr. Bagg moved that Council Rule No. 33 be amended by inserting the words: "Said notice shall be on the same day on which the decision proposed to be considered took place." Adopted.

The rule, as amended, reads as follows :

"Rule 33, amended. When notice of the intention to move the reconsideration of any bill or joint resolution shall be given by a member, said notice shall be on the same day on which the decision proposed to be considered took place; the Clerk of the Council shall retain the said bill or joint resolution until after the time during which said motion can be made, unless the same can be previously disposed of."

Mr. Galloway offered the following concurrent resolution :

*Resolved, by the Council, the Assembly concurring, That our delegate in Congress be requested to use his influence to procure the establishment of a semi-weekly mail route, starting from the town of Deer Lodge, the county seat of Deer Lodge county, via Gold Creek, Floril Creek, the Missoula river to Bear Town, and the establishment of a post office at Bear Town, in Deer Lodge county.*

*Resolved, That His Excellency the Governor be, and is hereby*

requested to forward a copy of the foregoing resolution to our delegate in Congress, and the Postmaster General.

Adopted.

On motion of Mr. Bagg, the Council adjourned till 10 o'clock, A. M., to-morrow.

CHAS. S. BAGG,  
*President.*

WM. Y. LOVELL,  
*Chief Clerk.*

## FIFTH DAY

NOVEMBER 9, 1866.

Council called to order by the President.

Roll called—absentees, Messrs. Wilkinson and Waterbury.

The record of yesterday was read, corrected and approved.

Mr. Chiles gave notice that he would, on to-morrow or some subsequent day, introduce "An Act entitled an act to amend an act concerning divorce and alimony."

Mr. Waterbury gave notice that he would, on to-morrow or some subsequent day, introduce "A Bill authorizing John Wilson and R. E. Eddy to establish and maintain a ferry across the Missoula river."

Mr. Chiles introduced C. B. No. 5, entitled "An Act authorizing G. O. Humphreys and Wm. Allison, their heirs and assigns, to construct a ditch and take water from Deer Lodge Creek for mining purposes."

Read first and second time, and referred to Committee on Incorporations.

Mr. Chiles introduced C. B. No. 6, entitled "An Act concerning landlords and tenants."

Read first and second time, and referred to the Committee on Judiciary.

Mr. Spratt offered the following resolution :

*Resolved*, By the Council, the House concurring, that a Joint

Committee of two from the Council and two from the House be appointed, whose duty it shall be to ascertain the number and character of books belonging to this Territory now held by the various express offices for non-payment of charges of freight and the amount due thereon, and to whom they are directed.

The resolution was adopted, and Messrs. Spratt and Lowry were appointed a Committee on the part of the Council.

Mr. Chiles offered the following resolution :

*Resolved*, That the Secretary of the Territory be, and he is hereby requested to furnish to this Council what information he has in his possession concerning the laws enacted by the First Legislative Assembly of this Territory and which were ordered to be printed.

Mr. Wilkinson offered the following resolution :

*Resolved*, That the Committee on Judiciary be instructed to report a bill revising the laws of this Territory relative to the levying and collection of taxes and the imposition of licenses.

On motion of Mr. Waterbury, the resolution was laid on the table.

Mr. Orr offered the following resolution :

*Resolved*, By the Council, the House concurring, that the President of the Council and Speaker of the House of Representatives be instructed to ascertain from the district judges of this Territory, if they intend to hold courts and enforce the laws passed by the previous and present sessions of the Montana Legislature, and inform their respective Houses as soon as convenient.

Withdrawn.

On motion of Mr. Brown, the Council adjourned until 2 o'clock,  
P. M.

## AFTERNOON SESSION.

The President called the Council to order at 2 P. M.

The following message was received from the House :

*To the Hon. President of the Council:*

SIR—I am directed by the House to inform your honorable body that the House has passed the following C. B. on Nov. 8, 1866, which is herewith transmitted.

C. B. No. 4, "An Act to amend an act creating certain offices in Montana Territory, providing for the manner of their election, declaring to whom resignations shall be made, when the office shall be declared vacant, and the manner of filling vacancies."

Also, notice was given of the introduction of the following bills :

By Mr. Johnson, "An Act to change the county seat of Missoula county, and legalizing the acts of the county commissioners of said county."

Also, "An Act to amend an act concerning licenses, approved February 9, 1866, and the amendment to said act, approved April 13, 1866.

By Mr. McMurtry, "An Act to amend an act to prevent pasturing stock on winter grass lands in Deer Lodge county, Montana Territory."

By Mr. McCullough, "An Act to amend an act creating the office of assessors, and defining their duties."

By Mr. Esler, "An Act in relation to roads and road tax."

By Mr. Mimms, "An Act entitled an act to suppress gaming in Montana Territory."

Also, "An Act entitled an act maintaining and defending possessory rights upon the public domain in Montana Territory."

By Mr. Smith, "An Act to locate a territorial road from Helena to the southern boundary of this Territory, to connect with the Salt Lake road."

By Mr. Blakely, "An Act to change the county seat of Galatin county."

Also, "An Act to authorize Charles Francisco and David P. Abbott to construct a ferry on Sun river, at the old Mullen crossing."

By Mr. McMurtry, "An Act for the collection of gambling debts by law."

By Mr. Van Hagen, "An Act to change the name of Muscleshell county and county seat."

Also, That a Committee of three was appointed by the House to act with a like Committee from the Council, whose duty it shall be to revise and amend the license law. The Committee on the part of the House are—Messrs. Wylie, Mimms, and McManus.

Also, Mr. Buck introduced H. B. No. 4, "An Act authorizing Ray W. Andrews to establish a ferry across the Missouri river."

A. H. BARRETT,

*Chief Clerk H. of R.*

The Council concurred in the above resolution, and Messrs. Lowry, Brown and Chiles were appointed such Committee on the part of the Council.

On motion of Mr. Spratt, the latter clause of the resolution of Mr. Chiles, passed yesterday, relating to the printing of the proceedings of the Council, was repealed.

Mr. Phelps introduced C. B. No. 7, entitled "An Act concerning fences and fence reviewers trespassing upon private property."

Read first and second time by its title, and referred to Committee on Agriculture.

Mr. Brown introduced C. B. No. 8, "An Act entitled an act concerning jurors in the district and justices' courts in mining cases in the Territory of Montana."

Read first and second time, and referred to Committee on Judiciary.

On motion of Mr. Brown, the Council adjourned until 10 A. M., the morning of the 10th November.

CHARLES S. BAGG,

*President.*

WM. Y. LOVELL,

*Chief Clerk.*



## SIXTH DAY.

NOVEMBER 10, 1866.

Council called to order by the President.

Roll called—Mr. Lowry absent.

Journal read, corrected, and approved.

Charles V. D. Lovejoy presented the following communication :

COUNCIL HALL, VIRGINIA CITY, }  
Nov. 10, 1866. }

*To the Hon. President of the Council :*

I have just been informed by telegram that my presence is immediately required at Salt Lake City. In view of this fact, I would respectfully tender my resignation as Assistant Clerk of the Council, at the same time thanking your Honor and members of the Council for the uniform courtesy I have received during my brief association with them.

Respectfully,

CHAS. V. D. LOVEJOY.

Message from the House received and read, to wit :

HOUSE OF REPRESENTATIVES, }  
VIRGINIA CITY, } Nov. 10, 1866. }

*To the Hon. President of the Council :*

SIR—I am directed to inform your honorable body that the following bills have been introduced in the House :

By Mr. Johnson—H. B. No. 5, "An Act to change the county seat of Missoula county, and to legalize the acts of the county commissioners of said county."

Indefinitely postponed.

By Mr. McCullough—H. B. No. 6, "An Act to amend an act entitled an act creating the office of assessor and defining his duties."

By Mr. Mimms—H. B. No. 7, "An Act to suppress gaming in Montana Territory, and fixing the pains and penalties of the same."

By Mr. Van Hagen—H. B. No. 8, "An Act to change the name of Muscleshell county and county seat."

By Mr. McMurtry—H. B. No. 9, "An Act to repeal an act to prevent pasturing stock on winter grass lands in Deer Lodge county, Montana Territory, approved April 12, 1866." Which was read third time, and passed Nov. 9, 1866.

The following bill was lost on its final passage, November 9, 1866:

H. B. No. 1, "An Act to repeal an act entitled an act relating to trout fishing."

Also, that the following bill was indefinitely postponed Nov. 9, 1866:

H. B. No. —, "An Act entitled an act to regulate the sale of horses, mules and cattle at auction, in Montana Territory."

Also, the Council concurrent resolution in relation to appointing a Joint Committee of two from each House to ascertain the number and character of books held by Express companies for non-payment of freights, was concurred in, and Messrs. Mimms and Esler were appointed on the part of the House.

A. H. BARRETT,

*Chief Clerk H. of R.*

Mr. Spratt moved that the resignation of the Assistant Secretary, C. V. D. Lovejoy, be accepted. Which was carried.

Mr. Waterbury moved that the resignation of Mr. Lovejoy be entered upon the record.

On motion of Mr. Chiles, the Council proceeded to the election of an Assistant Clerk to fill the vacancy occasioned by the resignation of C. V. D. Lovejoy.

Mr. Moore moved that the Council take a recess until 2 o'clock, P. M. Lost.

Mr. Phelps moved that the Council take a recess until 11 A. M. Carried.

The Council having taken a recess as above, and the President calling the Council to order, announced that the business before the Council was the election of an Assistant Clerk.

Whereupon Mr. Chiles nominated J. S. Slater; Mr. Galloway nominated Ansel Briggs, and Mr. Wilkinson nominated J. A. Inslee.

A ballot was had, and J. A. Inslee having received a majority of all the votes cast, was declared by the President elected to the office of Assistant Clerk of the Council.

Whereupon J. A. Inslee appeared, and after being qualified according to law entered upon the discharge of his duties.

Mr. Wilkinson, chairman of the Committee on Printing, reported Council Bills Nos. 2, 3 and 8 correctly printed.

On motion of Mr. Waterbury, the report was received and adopted.

Mr. Chiles, chairman of Committee on Enrollment, reported C. B. No. 4 correctly enrolled.

Mr. Lowry gave notice that, on to-morrow or some subsequent day, he would ask leave to introduce a bill for "An Act entitled an act providing for increased compensation to the officers of the Territory."

Mr. Waterbury gave notice that, on to-morrow or at an early day, he would ask leave to introduce a bill for "An Act to repeal certain sections of an act entitled an act defining the duties of county treasurers, and the payment of county warrants."

Mr. Chiles gave notice of the introduction of a bill for "An Act to incorporate the Clark's Fork and Fort Benton Wagon Road Company."

Mr. Spratt introduced, in accordance with previous notice, C. B. No. 9, "An Act in relation to contracts, bills of exchange, promissory notes and accounts."

Bill read first and second time by its title, and, on motion, was referred to Committee on Judiciary.

Mr. Waterbury, in accordance with previous notice, introduced C. B. No. 10, entitled "A Bill for, an act authorizing John Wilson and R. E. Eddy, their heirs, assigns and associates, to establish and maintain a ferry across the Missoula river."

Read first and second time, and referred to Committee on Incorporations.

Mr. Waterbury introduced C. B. No. 11, "A Bill for an act concerning corporations."

Read first and second time, and referred to Committee on Judiciary.

Mr. Brown offered the following resolution, which was carried :

*Resolved*, By the Council, the House concurring, that the Auditor and Treasurer of the Territory are requested to make a complete statement of the revenue funds, income and taxable property and other resources of the Territory, and report the same at an early day for the consideration of said body, and the presiding officer of each House shall appoint a Committee of one from each House to wait upon said officers and inform them of the request.

The President appointed A. A. Brown such Committee on the part of the Council.

Mr. Wilkinson offered the following Joint Resolution, which was laid on the table :

*Resolved*, That a Joint Committee of five, two from the Council and three from the House, be appointed, whose duty it shall be to memorialize Congress to pass an act to increase the pay of the Federal officers of Montana Territory, and the "per diem" of the members of the Legislature of said Territory.

The Council then took up H. B. No. 9, being "An Act to repeal an act entitled an act to prevent pasturing stock on winter grass lands in Deer Lodge county, Montana Territory."

Bill read first and second time.

On motion of Mr. Brown, the bill was amended by striking out "1860" and inserting "1866."

Amendment adopted, and bill passed by the following vote :

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Moore, Orr, Tuttle, Waterbury, Wilkinson, and Wilson—10.

*Nays*—Messrs. Phelps and Spratt—2.

Mr. Brown offered the following Joint Resolution :

*Resolved*, By the Council, the House concurring, that a Joint Committee of two from the Council and two from the House be appointed as a Committee to memorialize Congress to pass a law extending the jurisdiction of justices of the peace in Montana Territory, in civil cases, to five hundred dollars.

On motion, the resolution was referred to Judiciary Committee.

On motion of Mr. Chiles, the Council adjourned to 2 o'clock, P. M.

## AFTERNOON SESSION.

Council called to order at 2 o'clock by the President.

Roll called—Mr. Moore absent.

The following was received from the House of Representatives:

November 10, 1866.

*To the Hon. President of the Council:*

SIR—I am directed by the House to inform your honorable body, that the following notice of the introduction of a bill was given by Mr. Donegan, Nov. 9, 1866:

“A Bill for an act entitled an act to provide for the formation of corporations for certain purposes.”

A. H. BARRETT,

*Chief Clerk.*

Mr. Spratt, chairman of the Judiciary Committee, reported on C. B. No. 8, as follows:

Your Committee, to whom was referred C. B. No. 8, have had the same under consideration and beg leave to report the same back to the Council, recommending that the same be reported to the Committee of the whole House.

On motion, the report was adopted, and the bill so referred.

Mr. Spratt, chairman of the Judiciary Committee, reported on C. B. No. 3, as follows:

Your Committee to whom was referred C. B. No. 3, entitled “An Act to repeal an act to pay petit jurors,” have had the same under consideration and beg leave to report the same back, recommending that said bill be referred to Committee of the Whole.

On motion, the report was received, and the bill so referred.

On motion of Mr. Spratt, the Council went into Committee of the Whole on C. B. Nos. 8 and 3.

The President called Mr. Spratt to the chair.

Committee arose, and, through their chairman, asked leave for time to report.

On motion of Mr. ———, the Council adjourned until 10 o'clock, A. M., Monday, Nov. 12, 1866.

CHARLES S. BAGG,

*President.*

WM. Y. LOVELL,

*Chief Clerk.*



## SEVENTH DAY.

NOVEMBER 12, 1866.

Council called to order by the President, at 10 A. M.

Roll called—absentees, Messrs. Lowry, Moore and Tuttle.

Journal read, corrected, and approved.

Mr. Galloway gave notice of a bill for "An Act entitled general revenue act, creating a revenue for territorial and county purposes, and repealing an act entitled an act creating the office of assessor, and defining his duties, approved April 2, 1866."

Mr. Orr gave notice of a bill entitled "An Act relating to estrays."

Mr. Lowry, according to previous notice, introduced C. B. No. 12, being "An Act entitled an act prohibiting certain games."

Read first and second time, and referred to Committee on Judiciary.

Mr. Phelps, by consent of the Council, introduced C. B. No. 13, "A Bill to amend an act entitled an act to incorporate the town of Montana, in Beaver Head county, Montana Territory."

On motion of Mr. Chiles, the rules were suspended, and the bill read third time and passed by the following vote :

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Orr, Phelps, Spratt, Tuttle, Waterbury, Wilkinson, Wilson, and Mr. President—12.

*Nays*—None.

Mr. Wilson introduced, in accordance with previous notice, C. B. No. 14, being a bill for "An Act to amend an act entitled an act defining the duties of county treasurers and payment of county warrants."

Bill read first and second time, and, on motion, referred to Committee on Ways and Means.

Mr. Lowry introduced, in accordance with previous notice, C. B. No. 15, being a bill for "An Act entitled an act providing for increased compensation to the officers of this Territory and other persons."

Bill read first and second time, and referred to Committee on Ways and Means.

Mr. Wilkinson offered a Joint Memorial to the Congress of the United States, for increase of pay of Federal officers, etc.

Memorial read, and referred to Committee on Federal Relations.

Mr. Chiles, chairman of Committee on Enrollment, reported as follows:

Your Committee on Enrollment report C. B. No. 4, being "An Act to amend an act creating certain officers in the Territory of Montana; providing for the manner of their election; declaring to whom resignations shall be made; when the office shall be deemed vacant, and the manner of filling vacancies," was placed in the hands of His Excellency Governor Green Clay Smith, for approval, at 10 $\frac{3}{4}$  o'clock, this forenoon.

WM. H. CHILES, *Chairman.*

Report adopted.

Mr. Spratt, chairman of the Committee of the Whole, on C. B. No. 3, entitled "An Act to repeal an act to pay petit jurors," reported as follows:

The Committee of the Whole, having had under consideration C. B. No. 3, beg leave to report the same back to the Council,

with the following amendments, adopted by said Committee, to wit:

That the blank at the end of line 5, in section 2, be filled with the word "four."

Amend the same section by adding, in the 6th line, after the word "juror," and before the word "to," the following: "Or give security for the payment of the same."

Amend section 3 of same bill by adding, after the word "fact," and before the word "which," at the end of the 9th line, in same section, the following: "and that he has a meritorious cause of action against the defendant or defendants."

J. G. SPRATT, *Chairman*.

Report adopted.

Mr. Chiles moved that the bill, and the amendments recommended by the Committee, be indefinitely postponed.

Motion prevailed by the following vote:

*Yeas*—Messrs. Brown, Chiles, Lowry, Orr, Phelps, Spratt, Tuttle, Wilson, and Mr. President—9.

*Nays*—Messrs. Galloway and Wilkinson—2.

So the bill and amendments were indefinitely postponed.

Mr. Spratt, chairman of Committee of the Whole, reported as follows:

Your Committee of the Whole, to whom was referred C. B. No. 8, beg leave to sit again for the further consideration of said bill.

Report adopted, and bill so referred.

Mr. Brown, from the Special Committee on C. B. No. 10, reported as follows:

That, after having carefully examined the several provisions of the same, report the same back to the Council, with the recommendation that it be referred to Committee of the Whole.

Report adopted, Committee discharged, and bill so referred.

Mr. Spratt, chairman of Committee on Judiciary, made the following report on C. B. No. 6 :

Your Committee on Judiciary would report that they have had C. B. No. 6 under consideration, and beg leave to report said bill back to the Council, and recommend that the same be referred to Committee of the Whole.

Report adopted, and bill so referred.

A message from the House was read, recorded, and acted upon.

HOUSE OF REPRESENTATIVES, }  
VIRGINIA CITY, Nov. 12th, 1866. }

*To the Hon. President of the Council :*

SIR—I am directed by the House to inform your honorable body that the following notices have been given in the House, of the introduction of bills :

By Mr. Esler, "An Act in relation to bridges over mining and farming ditches."

"An Act to amend an act entitled an act defining the duties of county treasurers and the payment of county warrants, approved March 14th, 1866."

By Mr. McMurtry, "A Bill authorizing Constant Guyos to construct a toll road from the Little Blackfoot river to Helena City."

By Mr. Johnson, "An Act to amend an act entitled an act relating to trout fishing."

By Mr. Smith, "An Act to establish the boundary lines between Madison and Beaver Head counties."

By Mr. McCullough, "An Act to change the time of holding the annual elections."

By Mr. Mimms, "An Act to invest religious societies with certain powers of bodies corporate."

Also, the following bills have been introduced :

By Mr. Donegan, H. B. No. 10, "An Act to provide for the formation of corporations for certain purposes."

By Mr. Mimms, "An Act defending and maintaining possessory rights upon the public domain in Montana Territory."

Also, that the House passed House Concurrent Resolution No. 3, which is hereby transmitted, asking that a Joint Committee may be appointed to memorialize Congress.

The Committee appointed on the part of the House are Messrs. Wylie, Van Hagen and Buck.

A. H. BARRETT,

*Chief Clerk House of Representatives.*

Mr. Wilkinson, chairman of Committee on Printing, reported:

That, having examined C. B. No. 6, they beg leave to report it correctly printed, except in line 3, section 7, the word "received" should be "recovered." And in line 2, section 24, the word "lien" should be "lease."

Report received and adopted.

On motion of Mr. Chiles, the Council went into Committee of the Whole, for the purpose of considering Council Bills Nos. 8, 6, and 10.

The President called Mr. Chiles to the chair.

The Committee of the Whole having arose, the chairman, Mr. Chiles, reported—

That the Committee had under consideration C. B. No. 8, and that they ask leave to report progress, and to sit again.

Report read and adopted.

On motion, the Council took a recess until 2 o'clock, P. M.

## AFTERNOON SESSION.

The President called the Council to order at 2 P. M.

Roll called—absent, Messrs. Moore and Spratt.

On motion, the Council went into Committee of the Whole—Mr. Chiles in the chair—to take into consideration Council Bills Nos. 8, 6 and 10.

The President called the Council to order, and the chairman of the Committee of the Whole reported on C. B. No 8.

Report read. No action taken on the report.

Mr. Waterbury moved that the Council now adjourn.

Motion prevailed, and Council adjourned until 10 o'clock, A. M., Nov. 13, 1866.

CHARLES S. BAGG,  
*President.*

WM. Y. LOVELL,  
*Chief Clerk.*

## EIGHTH DAY.

NOVEMBER 13, 1866.

Council called to order by the President at 10 A. M.

Roll called—absent, Messrs. Lowry, Moore, and Spratt.

Journal read and approved.

A message from the House was received, read, and acted upon.

HOUSE OF REPRESENTATIVES, }  
VIRGINIA CITY, Nov. 13, 1866. }

*To the Hon. President of the Council:*

SIR—I am directed by the House to inform your honorable body, that notice has been given that the following Bills will be introduced in the House:

By Mr. Van Hagen—"An Act to authorize H. C. Graves, Thomas Barden and their associates, to construct and maintain a toll road from Loraine's Bridge, on the Big Hole river, on the road leading from Virginia City to Cottonwood, in Deer Lodge county, thence by the most direct and practicable route to Red Mountain or Highland Gulch."

By Mr. Clanton—"An Act to incorporate the Missouri River Boom and Lumber Company."

Also, the following Bills have been introduced:

By Mr. McMurtry—H. B. No. 12, "An Act to authorize Constant Guyos to establish and maintain a toll road from the Little Blackfoot river to Helena City."



Mr. Mimms introduced H. J. R. No. 1, "Relating to the Commissioners appointed to settle with the late Auditor and Treasurer of Montana Territory."

Read first and second time, rules suspended, read third time, and passed.

Also, that the following bills have passed the House :

H. B. No. —, "An Act to change the name of Muscleshell county and county seat."

Also, C. B. No. 13, "An Act to amend an act entitled an act to incorporate the town of Montana in Beaver Head county, Montana Territory."

And that the House has concurred in the amendment of the Council to H. B. No. 9.

A Committee of one was also appointed by the House, in compliance with Council Concurrent Resolution, to wait upon the Auditor and Treasurer and request a report at an early day.

Mr. Mimms was appointed such Committee on the part of the House.

H. B. No. 7, "An Act to suppress gaming in Montana Territory," was indefinitely postponed, Nov. 12, 1866.

I am also instructed by the House to request the Council to have the proper indorsements made upon C. B. No. 13 and H. B. No. 9 herewith returned.

A. H. BARRETT,  
*Chief Clerk H. of R.*

A communication from the Hon. Secretary of the Territory was received, read and referred to the Special Committee heretofore appointed by the Council relative to the publication of the laws of the First Legislative Assembly.

Mr. Brown, chairman of the Committee appointed to confer with the Auditor and Treasurer of the Territory, reported as follows :

Your Special Committee appointed to confer with the Auditor

and Treasurer have conferred with said officers, and report that their proceedings will be presented to this body on Monday next.

Report read, and adopted, and Committee discharged.

Mr. Waterbury gave notice of the introduction of a bill "Authorizing J. A. Johnson and Charles F. McCarty, their heirs and assigns, to establish and maintain a toll bridge across the Hell Gate river."

Also, of a bill for "An Act to amend an act entitled an act to incorporate the Missouri River and Rocky Mountain Wagon Road and Telegraph Company."

Mr. Orr, in accordance with previous notice, introduced C. B. No. 16, being a bill for "An Act defining the jurisdiction of the several courts of this Territory and prescribing their duties."

Read first and second time, and referred to the Committee on Judiciary.

Mr. Chiles, in accordance with previous notice, introduced C. B. No. 17, being a bill for "An Act to amend an act concerning divorce and alimony."

Read first and second time, and referred to Committee on Judiciary.

Mr. Chiles, in accordance with previous notice, introduced C. B. No. 18, being a bill for "An Act to incorporate the Clark's Fork and Fort Benton Wagon Road Company."

Read first and second time, and referred to Committee on Incorporations.

Mr. Wilkinson, chairman of the Committee on Printing, made the following report:

Your Committee on Printing, to whom was referred C. B. Nos. 1 and 11, beg leave to report that they have examined the printed copies and find that C. B. No. 1 and C. B. No. 11 are correctly

printed except the word "incorporation" in line 8, section 13, which should be "*corporation*," and the word "designate" in line 4, section 18, should be "*designation*," and the word "the" after the word designation, should be changed to "*of*."

Report received, and adopted.

H. B. No. 8 was read first and second time, and referred to Committee on Towns and Counties.

Mr. Chiles, chairman of Committee of the Whole on C. B. Nos. 6, 8, and 10, reported as follows :

Your Committee of the Whole, having had under consideration C. B. No. 8, report the bill back, with the following amendments :

Section 1, line 2, strike out "in the district courts or justices," and insert, in lieu thereof, the word "several."

Section 2, line 1, strike out the words "any four" and insert "two-thirds."

The Committee make no recommendation concerning said bill, and ask leave to sit again on Council Bills Nos. 6 and 10.

Report received and adopted, and bill ordered to be engrossed for third reading.

Mr. Waterbury moved to go into Committee of the Whole. Carried.

The chairman of Committee, upon arising, asked for further time and leave to sit again. Granted.

On motion, the Council adjourned to 2 o'clock, P. M.

## AFTERNOON SESSION.

The President called the Council to order at 2 P. M.

Roll called—absentees, Messrs. Moore and Wilkinson.

Mr. Chiles, chairman of the Committee of the Whole, reported as follows:

The Committee of the Whole would refer back C. B. No. 10, "An Act to authorize John Wilson and R. E. Eddy to establish a ferry across the Missoula river," and recommend its passage, after being amended as follows:

Section 1, line 7, strike out "trail" and insert "road."

Section 2, line 8, strike out "3" and insert "2."

" line 11, strike out "riding on."

" line 11, strike out "1.50" and insert "50."

Between lines 11 and 12, insert as follows: "For each horse and rider, \$1.00."

Line 14, strike out "20" and insert "15."

Line 15, strike out "other than Indians."

Section 5, line 3, strike out "Approved by the Governor" and insert "passage."

Your Committee have made no disposition of C. B. No. 6, and ask leave to sit again.

On motion of Mr. Spratt, the Council went into Committee of the Whole.

Mr. Spratt in the chair. [C]

The Committee having been occupied a short time on C. B. No. 6, the Committee arose, and reported through their chairman, as follows:

Your Committee of the Whole, to whom was referred C. B.

No. 6, entitled "An Act concerning landlords and tenants," beg leave to report that they have had the same under consideration and herewith report it back to the Council, with the recommendation that the bill do pass.

Report adopted, and bill ordered engrossed for its third reading.

Mr. Phelps made the following report :

Your Committee on Engrossment, beg leave to report C. B. No. 8, "An Act entitled an act concerning jurors in the several courts in mining cases in the Territory of Montana," as correctly engrossed.

Your Committee also report that the two last sections of said bill are not numbered.

Mr. Phelps also made the following report:

Your Committee on Engrossment beg leave to report C. B. No. 10 as correctly engrossed, with all the amendments recommended by the Committee of the Whole.

Your Committee further report, that there is a variance in the name of one of the corporators in said bill.

Mr. Spratt, chairman of Judiciary Committee, to whom C. B. No. 12, entitled "An Act prohibiting certain games," was referred, reported having had the same under consideration and beg leave to report the same back to the Council and recommend that the bill as reported be passed.

Report received and adopted.

Mr. Chiles moved that the bill be considered engrossed, and be read the third time.

Bill read third time, and passed by the following vote :

*Yeas*—Messrs. Chiles, Galloway, Lowry, Orr, Phelps, Spratt, Tuttle, Waterbury, Wilkinson, Wilson, and Mr. President—11.

*Nays*—Messrs. Brown and Moore—2.

On motion of Mr. Waterbury, C. B. No. 10, being "A Bill authorizing J. Wilson and R. E. Eddy, their heirs, assigns and associates, to establish and maintain a ferry across the Missoula river," was ordered to be engrossed for its third reading.

Bill engrossed, read the third time, and passed by the following vote:

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Moore, Phelps, Spratt, Tuttle, Waterbury, Wilkinson, Wilson, and Mr. President—12.

*Nays*—None.

On motion of Mr. Galloway, the Council adjourned until 10 o'clock, to-morrow morning.

CHAS. S. BAGG,

*President.*

WM. Y. LOVELL,

*Chief Clerk.*



## NINTH DAY.

NOVEMBER 14, 1866.

Council called to order by the President, at 10 o'clock, A. M.

Roll called—absentees, Messrs. Brown, Phelps and Spratt.

Journal read and corrected.

Mr. Galloway, chairman of Committee on Mines and Minerals, reported as follows :

Your Committee on Mines and Minerals report, that they have had C. B. No. 1, "An Act to regulate and license foreign miners," under consideration, and beg leave to report said bill back to the Council, with amendment, and recommend that the same be referred to the Committee of the Whole.

Report read and adopted.

Mr. Wilkinson, chairman of Committee on Printing, reported as follows, which was received :

Your Committee on Printing, to whom was referred C. B. No. 9, having examined the printed copy, report that it is correctly printed, except in line 2, section 11, the word "body" should read "bodies."

Mr. Phelps, chairman of Committee on Engrossment, reported as follows :

Your Committee on Engrossment beg leave to report C. B. No. 6 as correctly engrossed.

Your Committee further report the omission of the word "remove," in line 6, section 26.

Report adopted.



Mr. Waterbury, chairman of Committee on Ways and Means, reported :

Your Committee, to whom was referred C. B. No. 15, have had the same under consideration, and respectfully submit the following :

That the sections be renumbered, and in place of section 2, the section read :

“ The Judges of the Supreme Court in this Territory be authorized to charge and receive the sum of five dollars docket fee for each cause entered upon the dockets of their respective courts.”

With above amendments, we recommend that the bill be referred to the Committee of the Whole for the purpose of filling blanks, and that it do pass. ;

Report received and adopted.

Mr. Orr gave notice that, on to-morrow or some subsequent day, he would introduce a bill entitled “An Act in relation to pay of jurors in courts of this Territory.”

Mr. Wilkinson gave notice that, on to-morrow or some subsequent day, he would introduce a bill to authorize the county commissioners of Edgerton county to purchase, or erect a poor house, or hospital, and for other purposes.”

Mr. Moore gave notice that, on to-morrow or some subsequent day, he would introduce “A Bill to change the county line between Gallatin and Meagher counties, and to establish a line between Meagher and Jefferson counties.”

Mr. Galloway gave notice that he would, on to-morrow or some subsequent day, introduce a bill entitled “An Act in relation to the territorial library.”

Mr. Moore, by consent, introduced C. B. No. 19, to authorize George Roff and John A. Creighton to establish and maintain a road and bridge in Beaver Head county.”

Read first and second time, and referred to Committee on Incorporations.

Mr. Chiles offered the following:

*Resolved*, That His Excellency Gov. Green Clay Smith, be allowed the use of the Council Chamber on Friday evening next.

Adopted.

Mr. Galloway offered the following:

*Resolved*, That the Council request the Secretary of the Territory to furnish two copies of the new map of the Territory of Montana for the use of the Council.

Mr. Wilson, chairman of the Committee on Towns and Counties, reported on H. B. No. 8.

On motion of Mr. Chiles, the report and bill was referred back to said Committee.

H. J. R. No. 1 was read, as follows:

"*Whereas*, At the second session of the Legislative Assembly of the Territory of Montana, a commission, consisting of the following named persons: Andrew Leech, William M. Stafford, John S. Rockfellow and John H. Ming, were appointed and empowered to make a final settlement with John S. Lott and John J. Hull, late Auditor and Treasurer of Montana Territory; therefore,

*Resolved*, By the House of the Legislative Assembly, the Council concurring, that the commission appointed and empowered by the second session of the Legislative Assembly of the Territory of Montana, to settle with John S. Lott and John J. Hull, late Auditor and Treasurer of the Territory, be, and they are hereby requested to report their action thereon to both Houses at their earliest convenience.

Resolution read first and second time, and, on motion of Mr. Chiles, the rules were suspended, the resolution read third time, and passed by the following vote:

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Moore, Orr, Phelps, Spratt, and Tuttle—9.

*Nays*—None.

H. B. No. 4, being "An Act authorizing Ray W. Andrews to establish a ferry across the Missouri river."

Read first and second time, and referred to Committee on Incorporations.

C. B. No. 6, entitled "An Act concerning landlords and tenants," having been reported as properly engrossed, was read third time, and passed by the following vote:

*Yeas*—Messrs. Brown, Chiles, Galloway, Moore, Tuttle, Wilkinson, and Wilson—7.

*Nays*—Messrs. Spratt, Waterbury, and Mr. President—3.

Title agreed to.

C. B. No. 8, entitled "An Act concerning jurors in the district and justices' courts in mining cases in the Territory of Montana," reported as correctly engrossed, was read third time, and lost by the following vote:

*Yeas*—Messrs. Brown, Galloway, Waterbury, Wilson, and Mr. President—5.

*Nays*—Messrs. Chiles, Moore, Orr, Spratt, Tuttle, and Wilkinson—6.

Mr. Wilkinson, chairman of Committee on Printing, reported that C. B. No. 15 had been correctly printed.

Report received and adopted.

On motion of Mr. Waterbury, the Council took a recess until 2 o'clock, P. M.

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#### AFTERNOON SESSION.

Council called to order by the President.

Roll called—absent, Mr. Moore.

Mr. Chiles, chairman of Committee on Enrollment, offered the following report :

Your Committee on Enrollment report C. B. No. 13, "An Act to amend an act entitled an act to incorporate the town of Montana, in Beaver Head county, Montana Territory," as correctly enrolled.

Mr. Spratt, chairman of Committee on Judiciary, made the following report :

Your Committee, to whom was referred C. B. No. 11, entitled "A bill for an act concerning corporations," having had the same under consideration, beg leave to report the bill back to the Council, recommending that the same be referred to the Committee of the Whole for their immediate action.

Report received and adopted.

Mr. Spratt, chairman of Committee on Judiciary, also made the following report :

Your Committee, to whom was referred C. B. No. 9, having had the same under consideration, would beg leave to report the same back to the Council, recommending its further consideration in Committee of the Whole.

Report adopted.

The following message was received from the Governor:

I am directed by the Governor to inform the Council that he has approved and signed C. B. No. 13, entitled "An Act to incorporate the town of Montana City, in Beaver Head county, Montana Territory."

Report received.

On motion of Mr. Spratt, the Council went into Committee of the Whole to consider Council Bills Nos. 9 and 11. Mr. Lowry in the chair.

The following communication was received from the House, and omitted to be entered in this morning's proceedings :

HOUSE OF REPRESENTATIVES, }  
VIRGINIA CITY, Nov. 14, 1866. }

*To the Hon. President of the Council :*

SIR—I am directed by the House to inform your honorable body that the following H. B. was passed in the House, Nov. 13, 1866 :

H. B. No. 4, "An Act to authorize Ray W. Andrews to establish and maintain a ferry across the Missouri river."

Also, that Mr. Johnson introduced the following bill :

H. B. No. 13, "An Act entitled an act to authorize Edwin W. Park to erect a bridge or maintain a ferry across the Bitter Root river."

Also, that notice has been given of the introduction of the following bills :

By Mr. Andrews, "An Act to amend an act entitled an act to incorporate the Missouri River and Rocky Mountain Wagon Road and Telegraph Company."

By Mr. Mimms, "An Act entitled an act to create a common school fund."

By Mr. Buck, "An Act entitled an act to amend an act to incorporate the Bannack Ditch and Mining Company."

A. H. BARRETT,  
*Chief Clerk House of Representatives.*

The Committee of the Whole arose, to sit again to-morrow, at 11 o'clock, A. M.

On motion of Mr. Galloway, the Council adjourned.

CHARLES S. BAGG,  
*President,*

WM. Y. LOVELL,  
*Chief Clerk,*

## TENTH DAY.

NOVEMBER 15, 1866.

Council called to order by the President at 10 o'clock, A. M.

Roll called—all present.

Journal read, corrected and approved.

A communication from the House was received as follows:

HOUSE OF REPRESENTATIVES, }  
VIRGINIA CITY, November 15, 1866. }

*To the Hon. President of the Council:*

SIR—I am directed by the House to inform your honorable body that notice for the introduction of the following bills was given yesterday:

By Mr. McMurtry—a bill entitled “An Act to authorize John Noyes, John Swartz and R. C. Clark to construct and maintain a water ditch from the first canon on the Deer Lodge river, to Butte City.”

Also, “An Act to amend an act creating the office of district attorney, in each of the organized judicial districts.”

By Mr. McCullough—“An Act to authorize L. H. Warren, H. Gussett and James St. Clair to establish a ferry across Clark's Fork.”

Also, “An Act to authorize L. H. Warren, H. Gussett and James St. Clair to establish a ferry across the Big Horn river.”



By Mr. Mimms—"An Act to amend an act concerning religious, charitable and other societies, with certain powers of bodies corporate."

Mr. Buck introduced H. B. No. 18, "An Act to amend an act to incorporate the Bannack Ditch and Mining Company."

Mr. Roach introduced H. B. No. 19, "To amend an act concerning limitations."

Mr. McCullough introduced concurrent resolution herewith presented, asking that a Committee be appointed by the House and Council to memorialize Congress in regard to Quartz Law.

Messrs. McCullough and Esler were appointed on the Committee.

Mr. McMurtry introduced concurrent resolution to memorialize Congress in regard to Indians.

Resolution herewith presented.

The Committee appointed on the part of the House, are Messrs. McMurtry, Jordan and Johnson.

Mr. Mayhew introduced a concurrent resolution, herewith presented, asking that a committee of one from each House be appointed to request a report from the "Code Commissioners."

Mr. Mayhew was appointed on part of the House.

H. B. No. 3, "An Act creating the office of county attorney for each of the organized counties of the Territory," was lost on final passage, by the following vote: Yeas, 6; Nays, 15.

By Mr. Donegan—"A Bill to incorporate Virginia and Nevada Ditching and Fluming Company."

By Mr. McCullough—"A Bill to divorce Lizzie Smith and A. Budd C. Smith."



By Mr. Rogers—"An act providing for a jury fund, out of which petit jurors shall receive their pay as such."

Also, that the following bills were introduced to the House:

By Mr. Van Hagen—H. B. No. 14, "An Act to authorize H. Clay Graves and Thos. Burden to construct a toll road."

By Mr. Clanton—H. B. No. 15, "An Act to incorporate the Missouri River Boom and Lumber Company."

By Mr. Blakely—H. B. No. 16, "An Act to authorize Charles Francisco and David P. Abbott to construct a ferry across Sun river."

A. H. BARRETT,

*Chief Clerk House of Representatives.*

Mr. Brown, Chairman of Committee on Incorporations, made the following report:

The Committee to whom was referred H. B. No. 4 have carefully examined the several provisions of the same, and beg leave to report the same back to the Council, with the following amendment, and recommend the same do pass.

"Section 5. This act to take effect and be in force from and after its passage."

Read and adopted.

Mr. Wilson made the following report:

Your Committee on Towns and Counties would report, that they have had H. B. No. 8, entitled "An Act to change the name of Muscleshell county and county seat," under consideration, and would ask to report said bill back to the Council, recommending it be indefinitely postponed.

Report received and adopted.

Mr. Brown, Chairman of Committee on Incorporations, made the following report:

Your Committee to whom was referred C. B. No. 18, have had the same under consideration, and ask to report the same back to

the Council, and recommend the same be referred to the Committee of the Whole for their consideration.

Report received and adopted.

Mr. Wilkinson, Chairman of Committee on Printing, reported C. B. No. 16 correctly printed.

Mr. Chiles gave notice that on to-morrow he would ask leave to introduce a bill for "An Act requiring criminals to perform labor."

The two maps of the Territory were received by the Council, from the Secretary of the Territory.

Mr. Spratt moved, that the Secretary be requested to have the same framed for the use of the Council. Adopted.

Mr. Waterbury introduced C. B. No. 24, in accordance with previous notice. "An Act to authorize J. A. Johnson and C. P. McCarty, their heirs, assigns and associates, to establish a bridge and ferry across the Hell Gate river."

Read first and second time, and referred to Committee on Incorporations.

Mr. Phelps, by consent, without previous notice, introduced C. B. No. 21, "A bill to amend an act defining the Council and the Representative districts of the Territory of Montana, and apportioning the members of the Legislative Assembly thereof."

Read first and second time, and referred to the Committee on Judiciary.

Mr. Wilkinson introduced C. B. No. 22, under previous notice, entitled "An Act to authorize the county commissioners of Edgerton county to erect or purchase a hospital."

Read first and second time, and referred to Special Committee, consisting of Messrs. Wilkinson, Waterbury and Lowry.

Mr. Orr, under previous notice, introduced C. B. No. 20, entitled "An Act in relation to the pay of jurors in the courts of this Territory."

Read first and second time, and referred to the Committee on Judiciary.

Mr. Phelps, under previous notice, introduced C. B. No. 23, "A bill incorporating the Beaver Head County Gold and Silver Mining and Manufacturing Company."

Read first and second time, and referred to Committee on Incorporations.

Council resolved itself into a Committee of the Whole. Mr. Lowry in the chair.

Communication received from the House.

Committee arose, and Council adjourned to 10 o'clock A. M. to-morrow.

CHARLES S. BAGG,  
*President.*

WM. Y. LOVELL,  
*Chief Clerk.*

## ELEVENTH DAY.

NOVEMBER 16, 1866.

Council called to order by the President.

Roll called,—all present.

Journal read, corrected and approved.

The chairman of the Committee on Judiciary reported that they have had under consideration C. B. Nos. 16, 20 and 21, and would recommend that the same be severally referred to the Committee of the Whole.

Report received and adopted.

Mr. Waterbury, chairman of Committee on Ways and Means, reported on C. B. No. 14, that they have had the Bill under consideration, and would recommend that the same be referred to the Committee of the Whole.

Report received and adopted.

Mr. Waterbury moved that the Committee on Civil Practice Act be requested to report at an early day a Civil Practice Act.

Adopted.

Mr. Orr moved that the Committee on Civil Practice Act be instructed to report for consideration and adoption of the Council, the Civil Practice Act of California, with such amendments as they may deem necessary.

Carried.

Mr. Galloway, under previous notice, introduced C. B. No. 25, being a bill for an act entitled "An Act in relation to the Territorial Library."

Bill read first and second time, and referred to Committee on Judiciary.

Mr. Waterbury, under previous notice, introduced C. B. No. 26, being a bill for "An Act to amend an act entitled an act to incorporate the Missouri River and Rocky Mountain Wagon Road and Telegraph Company."

Bill read first and second time, and referred to Committee on Incorporations.

Mr. Spratt, by consent, introduced C. B. No. 27, being "An Act to amend an act respecting executors and administrators."

Read first and second time, and referred to Committee of the Whole.

Mr. Chiles, under previous notice, introduced C. B. No. 28, being a bill for "An Act entitled an act requiring criminals to perform labor."

Read first and second time, and referred to Committee on Judiciary.

Mr. Waterbury, chairman of Committee on Ways and Means, reported C. B. No. 14, being "An Act entitled an act defining the duties of county treasurer, and payment of county warrants," with the recommendation that it be referred to the Committee of the Whole.

The bill was so referred.

Mr. Spratt, by consent, gave notice of the introduction of "A Bill amendatory of the attachment law of this Territory."

Mr. Brown, chairman of the Committee on Incorporations, reported on C. B. No. 24, and recommended that the same be referred to the Committee of the Whole.

Bill so referred.

A message from the House was received and read.

The Concurrent Resolution of the House, asking the appointment of a Joint Committee to memorialize Congress in regard to the quartz law, was read, and, on motion of Mr. Chiles, was not concurred in by the Council.

The Concurrent Resolution of the House, asking a Joint Committee on the part of the Council to memorialize Congress as to the Bannack and Snake Indians, was read, and, on motion of Mr. Bagg, was not concurred in by the Council.

The Concurrent Resolution of the House in relation to a Joint Committee to confer with the Code Commissioners, appointed by virtue of an act of the legislature of 1865, was, on motion of Mr. Bagg, concurred in by the Council.

Mr. Bagg was appointed by the Council as such Committee.

H. B. No. 18 was read first and second time, and, on motion, was referred to Committee of the Whole.

H. B. No. 12 was read first and second time, and, on motion, referred to Committee on Incorporations.

Mr. Lowry, chairman of Committee of the Whole, reported on C. B. No. 9, which report was received and adopted; and, on motion of Mr. Waterbury, the bill was ordered to be engrossed for the third reading, with amendments, offered by Mr. Spratt, added to the report.

Mr. Bagg moved that the Council take up H. B. No. 8, being a bill for "An Act changing the name of Muscleshell county and county seat."

Bill read third time, and passed by the following vote:

*Yeas*—Messrs. Brown, Lowry, Orr, Phelps, Spratt, Tuttle, Waterbury, Wilkinson, and Mr. President—9.

*Nays*—Messrs. Chiles, Galloway, Moore, and Wilson—4.

Mr. Orr's motion to reconsider, on motion of Mr. Spratt, was laid on the table.

The following communication was received from the House:

HOUSE OF REPRESENTATIVES, Nov. 16, 1866.

By J. N. Buck, "An Act concerning costs in civil and criminal cases, etc."

Also, the following bills were introduced:

By Mr. Johnson, "An Act to amend an act relating to trout fishing."

By Mr. McCullough, H. B. No. 20, "An Act to divorce Lizzie Smith." Indefinitely postponed.

H. B. No. 22, "An Act to authorize L. H. Warren, H. Gussett and James St. Clair to establish a ferry across Big Horn river."

By Mr. McMurtry, H. B. No. 24, "An Act to authorize John Noys and John Swartz to maintain a water ditch, etc."

H. B. No. 12, "An Act to authorize C. Guyot to construct a toll road, etc.," was passed Nov. 15th, 1866.

A. H. BARRETT, *Chief Clerk.*

On motion of Mr. Bagg, the Council adjourned until to-morrow at 10 o'clock, A. M.

CHAS. S. BAGG,  
*President.*

W. Y. LOVELL,  
*Chief Clerk.*



## TWELFTH DAY.

NOVEMBER 17, 1866.

Council called to order by the President, at 10 o'clock.

Roll called—absent, Mr. Waterbury.

Journal read, corrected and approved.

Mr. Spratt, chairman of Committee on Judiciary, reported on C. B. No. 28, that, having had the same under consideration, beg leave to report the same back to the Council, with the recommendation that it be referred to the Committee of the Whole.

Mr. Lowry gave notice that, on to-morrow or some subsequent day, he would ask leave to introduce a bill for "An Act entitled an act to authorize Owen Gillmore and M. P. Lowry to construct and maintain a ferry or bridge across Sun river."

Mr. Brown gave notice that he would, at an early day, introduce a bill, entitled "An Act defining who shall be incompetent to testify in civil causes in the several courts of this Territory."

Mr. Chiles gave notice that he would, on Monday, introduce a bill for "An Act supplementary to an act in relation to notaries public."

Mr. Wilkinson introduced the following resolution :

*Resolved*, That the Governor be requested to appoint — Tier-  
nan and — Turnley, Commissioners to represent the Territory  
of Montana at the World's Fair, to be held at Paris, next Spring.

On motion of Mr. Chiles the resolution was laid on the table.

Mr. Phelps, chairman of Engrossment Committee, made the following report :

Your Committee on Engrossment having examined C. B. No. 24, find the same correctly engrossed.

Report accepted.

The Council then resolved itself into Committee of the Whole. Mr. Wilson in the chair.

The Committee, on motion of Mr. Bagg, arose, with leave to sit again.

On motion of Mr. Chiles, the Council adjourned to Monday morning, at 10 o'clock.

CHARLES S. BAGG,

*President.*

WM. Y. LOVELL,

*Chief Clerk.*

## THIRTEENTH DAY.

NOVEMBER 19, 1866.

Council called to order by the President.

Roll called.

Journal read and approved.

Mr. Lowry introduced, by previous notice, a bill for "An Act entitled an act to authorize Owen Gillmore and M. P. Lowry to establish and maintain a ferry or toll bridge across Sun river."

Read first and second time, and referred to Committee on Incorporations.

Mr. Chiles, under previous notice, introduced a bill entitled "An Act supplementary to an act in relation to notaries public."

Read first and second time, and referred to Committee on Judiciary.

Mr. Brown, previous notice having been given, introduced a bill entitled "An Act defining who shall be competent to testify in civil cases in the several courts of Montana Territory."

Read first and second time, and referred to Committee on Judiciary.

Mr. Brown, by consent, introduced a bill entitled "An Act to incorporate the Blackfoot City Water Company."

Read first and second time, and referred to Committee on Judiciary.

Mr. Phelps, by consent, introduced a bill to incorporate the Lemhi and Big Hole River Wagon Road and Bridge 'Company.'

Read first and second time, and referred to Committee on Incorporations.

Mr. Brown, chairman of Committee on Incorporations, made the following report :

Your Committee, to whom was referred C. B. No. 23, have examined the same, and beg leave to report the same back to the Council, and recommend it be referred to the Committee of the Whole.

Mr. Spratt, by consent, introduced a bill for "An Act to divorce Frances McCormick from the bonds of matrimony contracted with Isom McCormick."

Read first and second time, and referred to a Select Committee, consisting of Messrs. Chiles, Waterbury, and Moore.

The following message was read from the House:

The House has taken action on the following bills :

The vote by which C. B. No. 12 was passed, was, on motion, reconsidered, read third time, and, as amended, passed.

The following are the amendments by the Committee of the Whole :

In section 2, line 1, insert "knowingly," after word "shall."

In section 2, insert "him or her," and throughout the bill wherever the sense requires it.

In section 8, strike out the words "any other person," in lines 8 and 9 from the bottom.

Strike out section 5, make section 6 section 5, and so on throughout the bill.

H. B. No. 21, "An Act to amend an act in relation to trout fishing," was indefinitely postponed.

Mr. Johnson, on leave, introduced H. J. M. No. 1, "Asking for appropriations for surveys, and the establishment of a surveyor

general's office, and also for the establishment of a land office." Read first and second time, rules suspended, read third time, and passed. *Yeas*, 17; *Nays*, 1.

Mr. Mimms introduced H. B. No. 25, "An Act to incorporate the Helena City Water Ditch Company."

H. B. No. 24, "An Act authorizing John Swartz and R. C. Clark, their heirs and assigns, to construct and maintain a water ditch from Deer Lodge or Silver Bow Creek to Butte and Rocker Cities, in Deer Lodge county," was read the third time, and passed Nov. 17. *Ayes*, 18; *Nays*, 1.

Notice for the introduction of the following bills was given :

By Mr. Mimms, a bill for "An Act for the better observance of the Lord's Day."

By Mr. McMurty, "An Act to authorize Paul B. Anthony to construct and maintain a wagon road from Blackfoot City, in Deer Lodge county, to Helena City, in Edgerton county."

By Mr. Esler, "An Act entitled an act to incorporate the Legal Tender Tunneling Company."

Also, "To incorporate the Paradise Town Company."

By Mr. Donegan, "An Act defining misdemeanors in this Territory."

A. H. BARRETT, *Chief Clerk*.

On motion of Mr. Chiles, the Council concurred in the amendments of the House to C. B. No. 24, which was then considered engrossed, read third time, and passed by the following vote :

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Orr, Phelps, Spratt, Tuttle, Waterbury, Wilkinson, Wilson, and Mr. President—12.

*Nay*—Mr. Moore.

Mr. Spratt offered the following resolution :

*Resolved*, That all amendments to Council Rule No. 33, made at this session, be, and the same are hereby repealed.

On motion of Mr. Chiles, the resolution was laid on the table.

The Council then resolved itself into a Committee of the Whole. Mr. Wilson in the chair.

The Committee arose, to sit again at 2 o'clock, P. M.

The Council then adjourned.

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#### AFTERNOON SESSION.

Council met at 2 o'clock, P. M.

Roll called—all present.

Council resolved itself into a Committee of the Whole. Mr. Wilson in the chair.

The Committee arose.

Mr. Phelps, chairman of Committee on Engrossment, made the following report:

Your Committee on Engrossment have examined C. B. No. 9, and find the same correctly engrossed.

Report received.

H. B. No. 12 was taken up, and, on motion of Mr. Chiles, the rules were suspended, bill read the third time, and passed by the following vote:

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Moore, Orr, Phelps, Tuttle, Waterbury, Wilkinson, Wilson, and Mr. President—12.

C. B. No. 9, a bill for "An Act in relation to contracts, bills of

exchange, etc.," was taken up, rules suspended, read third time, and passed by the following vote :

*Yeas*—Messrs. Lowry, Moore, Orr, Phelps, Spratt, Tuttle, Wilkinson, Wilson, and Mr. President—9.

*Nays*—Messrs. Brown, Chiles, Galloway, and Waterbury—4.

Title agreed to.

On motion of Mr. Brown, Council adjourned to 7 o'clock this evening.

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#### EVENING SESSION.

The President called the Council to order at 7 o'clock.

Roll called—absent, Mr. Phelps.

On motion of Mr. Waterbury, the rules were suspended, and the Council resolved itself into a Committee of the Whole upon Council Bills Nos. 15 and 1. Mr. Waterbury in the chair.

The Committee arose, and the President called the Council to order.

Mr. Waterbury, chairman of Committee of the Whole, made the following report :

Your Committee most respectfully report that they have had C. B. No. 15, a bill for "An Act providing for increased compensation to the officers of this Territory, etc.," under consideration, and would report the same back, with accompanying amendments :

Section 2, 4th line, insert "twelve."

Section 2, 5th line, insert "ten."

Section 2, 6th line, insert "ten."

Section 2, 6th line, insert "eight."

Section 2, 7th line, insert "fourteen."

Section 2, 7th line, insert "eight."

And recommend the same do pass.



Also, C. B. No. 1, "An Act to regulate foreign miners," upon which they report progress, and ask leave to sit again at 11 o'clock, to-morrow morning.

Report received.

On motion, Council adjourned until 10 o'clock, A. M., to-morrow.

CHAS. S. BAGG,  
*President.*

WM. Y. LOVELL,  
*Chief Clerk.* J

## FOURTEENTH DAY.

NOVEMBER 20, 1866.

Council called to order by the President at 10 o'clock.

Roll called—absent, Mr. Lowry.

Journal read and approved.

Mr. Spratt, chairman of Committee, made the following report:

Your Committee on Judiciary, to whom was referred C. B. No. 31, in relation to notaries public, etc., having had the same under consideration, beg leave to report the same back, with the recommendation that the bill do pass.

Report accepted and adopted.

Mr. Chiles, by leave, introduced C. B. No. 38, a bill entitled "An Act in relation to officers failing to make reports as required by law."

Read first and second time, and referred to Committee on Judiciary.

Mr. Wilkinson, by consent, introduced Joint Resolution No. 4, "Requesting the appointment of commissioners to the Paris Exhibition."

Read first and second time, rules suspended, read third time and passed, with the following amendment:

"That nothing in this resolution shall be so construed as to bind or pledge the Territory for the payment of any compensation to, or expenses of, said commissioners."

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Moore, Phelps, Spratt, Tuttle, Waterbury, Wilkinson, Wilson, and Mr. President—12.

*Nays*—none.

H. M. No. 1, being "A Memorial to Congress asking for appropriations for surveys and surveyor general's office, etc.," was read first and second time, and referred to Committee on Federal Relations.

H. B. No. 24, "To authorize John Swartz and others to construct water ditch, etc."

Read first and second time, and referred to Committee on Incorporations.

Mr. Brown, by leave, made a report on C. B. No. 5, "An Act to authorize G. H. Humphreys and others to construct a ditch, etc."

Accepted, and, on motion of Mr. Chiles, recommitted to Committee on Incorporations.

Mr. Waterbury moved to take up C. B. No. 15, "An Act for increased compensation to officers, etc.," as amended in Committee of the Whole.

Rules suspended, bill engrossed, and passed at its third reading by the following vote:

*Yeas*—Messrs. Brown, Galloway, Lowry, Moore, Orr, Phelps, Tuttle, Waterbury, Wilson, and Mr. President—10.

*Nays*—Messrs. Chiles, Spratt, and Wilkinson—3.

Council resolved itself into Committee of the Whole on C. B. No. 1, and H. B. No. 18. Mr. Orr in the chair.

Committee arose; when Mr. Wilson, chairman of Committee of the Whole, made a report on C. B. No. 11, "An Act concerning corporations."

Your Committee of the Whole, having had C. B. No. 11 under consideration, ask leave to report the same back to the Council, with the following amendments, to wit:

In section 2, lines three and four, strike out the words "or clerk of the district court of the judicial district," and insert the words "of the county;" in lines five and six, strike out the words "courts in said district," and insert the word "county;" and in line eight, strike out the word "fifty," and insert the word "twenty."

In section 3, in line two, strike out the words "or the clerk of the district court," and insert the words "or district."

In section 18, lines one and two, strike out the words "for the purposes of ditching, mining, or conveying water for mining purposes," and in line eight, after the word "December," insert the words "the first day of January and such other days as shall be set apart by law for public holidays."

And in section 19, line one, strike out the word "officer," and and insert "persons."

In section 25, strike out the words "approved by the Governor," and insert the word "passage."

Report received and adopted.

Mr. Orr, chairman of the Committee of the Whole, on C. B. No. 1, "An Act to regulate foreign miners, etc.," reported same back, recommending the immediate action of the Council.

Report received, and on motion it was referred back to Committee of the Whole.

Mr. Chiles moved that C. B. No. 31, "An Act concerning notaries, etc.," be considered engrossed, and pass to its third reading.

Rules suspended, bill read third time, and passed by the following vote:

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Moore, Orr, Phelps, Spratt, Tuttle, Waterbury, Wilkinson, and Wilson—12.

*Nays*—none.

Mr. Orr, chairman of Committee of the Whole, reported as follows:

Your Committee, to whom was referred H. B. No. 18, "A Bill to amend an act entitled an act incorporating the Bannack Ditch

Company," having had the same under consideration, report said bill back to the Council, recommending the immediate action of the Council upon the same.

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#### AFTERNOON SESSION.

Mr. Chiles, chairman of Committee on Enrollment, made the following report:

Your Committee on Enrollment report that C. B. No. 12, "An Act prohibiting certain games," was handed to the Governor for consideration at 2½ o'clock this afternoon.

Report received.

A special message from the Governor was read.

On motion, H. B. No. 18 was taken up, rules suspended, bill read third time, title agreed to, and passed by the following vote:

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Moore, Phelps, Spratt, Tuttle, Waterbury, Wilkinson, Wilson, and Mr. President—12.

*Nay*—Mr. Orr.

On motion, C. B. No. 31 was taken up, and, on motion, the rules were suspended, bill read third time, title agreed to, and passed by the following vote:

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Moore, Orr, Phelps, Spratt, Tuttle, Waterbury, Wilkinson, and Mr. President—12.

*Nays*—none.

Mr. Chiles gave notice of "A Bill relative to penal bonds."

Mr. Brown, chairman of Committee on Incorporations, reported on C. B. No. 29, being "An Act to authorize Owen Gillmore

and N. P. Lowry to construct a bridge or ferry across Sun river," that having examined the same, recommend that the same do pass.

Report received and adopted.

Mr. Lowry moved the suspension of the rules, and that the bill be considered engrossed.

Motion prevailed, bill read third time, title agreed to, and passed by the following vote:

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Moore, Orr, Phelps, Spratt, Tuttle, Waterbury, Wilkinson, Wilson, and Mr. President—13.

*Nays*—none.

The Chairman of Committee on Incorporations, reported C. B. No. 30, and recommended that the bill pass.

Report received, and, on motion of Mr. Chiles, was recommit-  
ted to the Committee on Incorporations.

Mr. Chiles, chairman of Committee on Enrollment, reported C. B. No. 12 as correctly enrolled.

Report received and adopted.

Mr. Spratt was called to the chair by the President.

Mr. Bagg offered the following Joint Resolution No. 5:

*Resolved*, By the Council, the House concurring, That J. H. Ming, Auditor of the Territory, be required forthwith to report to the Houses of the Legislative Assembly, upon what authority of law he has audited and allowed items, as follows:

Printing Territorial Laws, Second Session of Legislature, under Joint Resolution No. 7, \$1,000.00.

Printing Gen. T. F. Meagher's Proclamation] as [Acting Governor, \$770.00.

Adopted.

Mr. Bagg offered the following Joint Resolution No. 6 :

*Resolved*, By the Council, the House concurring, That Andrew Leech and Wm. M. Stafford be, and they are hereby appointed, a Committee whose duty it shall be to settle with the Territorial Auditor and Treasurer, and to make to the House a full report upon all the items contained in their respective reports, and they have full power to send for persons and papers, and to compel the production and attendance of the same.

On motion, the resolution was laid on the table.

On motion, the Council adjourned until to-morrow morning, at 10 o'clock.

CHAS. S. BAGG,  
*President.*

WM. Y. LOVELL,  
*Chief Clerk.*



## FIFTEENTH DAY.

NOVEMBER 21, 1866.

Council called to order by the President, at 10 o'clock.

Roll called—absent, Messrs. Chiles, Lowry and Wilkinson.

Journal read and corrected.

Mr. Spratt, chairman of the Committee on Judiciary, made the following report :

Your Committee, to whom C. B. No. 17, was referred, having had the same under consideration, beg leave to report it back to the Council, and recommend that the bill do pass.

J. G. SPRATT, *Chairman*.

Report received and adopted.

Also, the following :

Your Committee, to whom was referred C. B. No. 28, having had the same under consideration, beg leave to report it back to this House, recommending that the bill do pass.

J. G. SPRATT, *Chairman*.

Mr. Brown, chairman of Committee on Incorporations, made the following report :

Your Committee, to whom was referred C. B. No. 33, having had the same under consideration, beg leave to report the same back to the Council, with the recommendation that the bill do pass.

A. A. BROWN, *Chairman*.

Report received and adopted.

Also, the following :

Your Committee, to whom was referred H. B. No. 4, after having duly investigated its several provisions, beg leave to report the same back to the Council, and recommend the passage of the same.

A. A. BROWN, *Chairman*.

Report received and adopted.

Also, the following :

Your Committee, to whom was referred C. B. No. 26, have had the same under consideration, and beg leave to report the same back to the Council, and recommend that it be referred to Committee of the Whole.

A. A. BROWN, *Chairman*.

Report received and adopted.

The Council resolved itself into Committee of the Whole, upon Council Bills Nos. 1, 14, 16, 18, 19, 20, 21, 23 and 27. Mr. Galloway in the chair.

The Committee arose to receive the following message from the Governor :

I am directed by the Governor to inform the Council that he has approved and signed C. B. No. 12, entitled "An Act prohibiting certain games."

The message was read and received.

The Council again resolved itself into Committee of the Whole. Mr. Galloway in the chair.

The Committee arose to receive the following message from the House :

The following notices of the introduction of bills have been given :

By Mr. Andrews, "An Act to authorize — Kenley and W. H. Todd to construct and maintain a water ditch from Monmouth

Gulch to Red Mountain City and vicinity, in Deer Lodge county."

By Mr. Donegan, "An Act to authorize James McEvily, John Moore, and their associates, to construct and maintain a wagon road from Bannack City to Lemhi, on the north side of Horse Prairie, and across the Rocky Mountain range."

Mr. Johnson, in pursuance of previous notice, introduced H. B. No. 28, "An Act authorizing Sam. Bressler, Robert Hedges, and their associates, to construct and maintain a toll road from Virginia City to Sterling City, in Hot Spring District."

Mr. Buck, pursuant to notice, introduced H. B. No. 29, "An Act to provide for the payment of cost by counties attached to others for judicial purposes, and in cases transferred from one county to another for trial, in Montana Territory."

H. B. No. 25, "An Act to incorporate the Helena City Water Company," was passed by the House.

C. B. No. 24, a bill for "An Act to authorize J. A. Johnston, C. F. McCarty, their heirs and assigns and associates, to construct and maintain a toll bridge or ferry across the Hell Gate river," was amended by the House, and passed. Amendments herewith presented.

H. B. No. 14, "An Act to authorize H. Clay Graves, Thomas Burden, their heirs and associates, to construct and maintain a toll road," was passed by the House.

H. B. No. 17, "An Act to invest religious, charitable, educational and other societies, with certain powers of bodies corporate," was passed by the House.

H. B. No. 27, "An Act defining the western boundary of Montana Territory on the Clark's fork of the Columbia river," was indefinitely postponed.

C. B. No. 10, "An Act authorizing John Wilson and R. E. Eddy to establish and maintain a ferry across the Missouri river," was lost.

The Council again resolved itself into a Committee of the Whole. Mr. Galloway in the chair.

The Committee again arose to receive the following communication (No. 2) from the House, through Mr. A. H. Barrett, Chief Clerk :

That the vote, by which C. B. No. 10 was lost, was reconsidered, and that the bill was read third time by its title, and passed.

The Council again resolved itself into Committee of the Whole, and again arose, to receive a message from the House in relation to C. J. R. No. 5, calling for a report from the Auditor and Treasurer of this Territory in regard to certain printing.

Council again resolved itself into Committee of the Whole, and arose at fifteen minutes past 3 o'clock, P. M.

The President called the Council to order.

The chairman of Committee of the Whole asked leave for time in which to make his report. Granted.

On motion of Mr. Waterbury, C. B. No. 24, a bill for "An Act to authorize J. A. Johnston, C. F. McCarty, their heirs, assigns and associates, to establish a bridge or ferry across the Hell Gate river," was taken up, and the following amendments of the House were concurred in :

In section 1, line 4, strike out the words "at their option."

Also, in same section, line 6, strike out the words "or Missoula."

In section 2, line 22, after the word "court," insert the words "or before any justice of the peace."

Add section 4: "The county commissioners of Deer Lodge county shall, at any regular meeting of the board, after the completion of said ferry or bridge, have power to reduce the rates of toll, as provided in section 3 of this act."

Add section 5: "This bill may be modified or amended at any future session of the legislature."

Change section 4 to section 6.

H. B. No. 14, "An Act to authorize H. Clay Graves, Thomas Burden, and their associates, to construct and maintain a toll road," was read first and second time, and referred to Committee on Incorporations.

H. B. No. 25, "An Act to incorporate the Helena City Water Company," was read first and second time, and referred to Committee on Incorporations.

H. B. No. 17, "An Act to invest religious, charitable and educational societies with certain powers of bodies corporate," was read first and second time, and referred to Committee on Incorporations.

C. B. No. 17, "An Act to amend an act entitled an act concerning divorces and alimony," was taken up, and, on motion of Mr. Bagg, was indefinitely postponed.

On motion of Mr. Galloway, the Council adjourned until to-morrow morning, at 10 o'clock.

CHAS. S. BAGG,  
*President.*

WM. Y. LOVELL,  
*Chief Clerk.*

## SIXTEENTH DAY.

NOVEMBER 22, 1866.

Council called to order by the President, at 10 o'clock, A. M.

Roll called—absentees, Messrs. Chiles, Lowry, Wilkinson, and Wilson.

Journal read and approved.

Mr. Wilkinson introduced the following notice of the introduction of a bill :

That he would, on to-morrow or some future day, introduce "A Bill to authorize B. F. Price, James L. Kirtty, and William H. Rodgers to construct a toll road."

Mr. Phelps introduced the following resolution, which was read and lost :

*Resolved*, That further consideration or action upon bills or acts of a private or local nature be suspended until after the passage or rejection of an act concerning corporations."

H. B. No. 4, "An Act authorizing Ray W. Andrews to establish a ferry across the Missouri river," was taken up, on motion of Mr. Waterbury, read third time, and passed by the following vote :

*Yeas*—Messrs. Bagg, Brown, Chiles, Galloway, Lowry, Moore, Orr, Spratt, Tuttle, Waterbury, Wilkinson, and Wilson—12.

*Nays*—None.

The title was then agreed to.

C. B. No. 28, "An Act requiring criminals to perform labor,"

was, on motion of Mr. Waterbury, taken up, read third time, and passed by the following vote :

*Yeas*—Messrs. Bagg, Brown, Chiles, Galloway, Lowry, Moore, Orr, Spratt, Tuttle, Wilkinson, and Wilson—11.

*Nay*—Mr. Waterbury.

The title was then agreed to.

The following communication from the House, through its Chief Clerk, A. H. Barrett, was read and received :

That the following notices for the introduction of bills was given in the House, on the 21st inst. :

By Mr. Smith, "An Act to change the capital of this Territory from Virginia City, in Madison county, to Helena City, in Edgerton county."

By Mr. McManus, "An Act to authorize John Lemon to maintain a ferry across the Hell Gate river, at or near the mouth of Bear creek, in Deer Lodge county."

The following bills were also introduced :

By Mr. Gorham, H. B. No. 30, "An Act to incorporate the Brown's Gulch and Silver Bow Water Ditch Company."

By Mr. Esler, H. B. No. 31, "An Act to incorporate the Fairbanks Town Company."

By Mr. Donegan, H. B. No. 32, "An Act to incorporate the Bannack City and Lemhi Wagon Road Company."

By Mr. Mimms, H. B. No. 33, "An Act to create a common school fund." Read first time, and rejected.

By Mr. Andrews, H. B. No. 34, "An Act to authorize J. C. Kerley, W. H. Todd, their heirs and assigns, to construct and maintain a water ditch from Monmouth Gulch to Red Mountain City, in Deer Lodge county."

C. J. R. was passed by the House Nov. 21st.

Also, that the following House Bills had been passed :

H. B. No. 16, "An Act to authorize Charles Francisco and



David P. Abbott to construct and maintain a ferry across Sun river."

H. B. No. 29, "An Act to provide for the payment of costs by counties attached to others for judicial purposes, and in cases transferred from one county to another for trial, in Montana Territory."

Mr. Phelps, chairman of Committee on Engrossment, made the following report on C. B. No. 11, a bill for "An Act concerning corporations":

Your Committee on Engrossment have examined C. B. No. 11, and find the same correctly engrossed.

Rules suspended, bill read third time by its title, and passed by the following vote:

*Yeas*—Messrs. Chiles, Galloway, Lowry, Moore, Phelps, Spratt, Tuttle, Waterbury, Wilkinson, and Wilson—10.

*Nays*—Messrs. Brown, Orr, and Mr. President—3.

Title agreed to.

Mr. Phelps gave notice that, on to-morrow or some subsequent day, he would ask leave to introduce "A Bill to amend an act entitled an act concerning tunnels, and the location of tunnel claims."

Mr. Galloway, chairman of Committee of the Whole on 21st inst., made the following report:

The Committee of the whole, to whom was referred C. B. No. 1, "An Act to regulate and license foreign miners," have had the same under consideration, and report the same back to the Council, recommending it be recommitted to Committee on Mines and Minerals.

Report read and received.

Also, C. B. No. 21, being "A Bill to amend an act defining the Council and Representative districts, and apportioning the members

of the Legislature thereof," be referred back to the Council, and recommending it be referred to Committee on Elections.

Report read and received.

Also, C. B. No. 16, "An Act defining the jurisdiction of the several courts of this Territory," was referred back to the Council, recommending it be recommitted to Committee on Judiciary.

Report read and received.

Also, C. B. No. 27, being "An Act to amend an act respecting executors and administrators," be referred back to the Council, with recommendation that the bill do pass.

Report read and received.

Also, C. B. No. 23, being "A Bill incorporating the Beaver Head County Gold and Silver Mining Company, etc.," was referred back to Council for further action, with the following amendments:

Section 2, by adding, "*Provided*, That nothing herein contained shall give said corporation more power or rights than can be enjoyed by individuals under general or local laws;" and by inserting the following as section 10 of said act: "*Be it further enacted*, That nothing in this act shall be so construed as to authorize said corporate body to use, work, or exercise the powers of this incorporation in any other than Beaver Head county, of Montana Territory."

Report read and received.

Also, C. B. No. 14, being "An Act to amend an act defining the duties of county treasurers, and the payment of county warrants," was referred back to Council, recommending it be referred to Committee on Judiciary.

Report read and received.

Mr. Brown, chairman of Committee on Incorporations, made the following report:

Your Committee, to whom was referred H. B. No. 24, "An Act

to authorize John Swartz and others to construct and maintain a water ditch from Deer Lodge or Silver Bow Creek to Butte and Rocker cities, in Deer Lodge county."

And C. B. No. 5, being "An Act authorizing G. O. Humphreys and William Allison, their heirs and assigns, to construct a ditch and take the water from Deer Lodge creek for mining purposes."

After hearing the statements of both parties, claimants to the franchise, would respectfully submit notes of said statements, herewith enclosed, for action of the House, without reference.

A. A. BROWN, *Chairman*.

The report was read and adopted, and, on motion, referred to a Special Committee of three, consisting of Messrs. Brown, Chiles and Phelps, with instructions to report evidence back to the Council.

Also, the following report on H. B. No. 14 :

Your Committee, to whom was referred H. B. No. 14, being "An Act to authorize H. Clay Graves, Thomas Burden, and their associates, to construct and maintain a toll road," have had the same under consideration, and beg leave to report the same back to the Council, and recommend the same do pass.

The report was read and adopted.

Also, the following report on H. B. No. 17, being "An Act to invest religious, charitable and educational societies with certain powers of bodies corporate" :

Your Committee, to whom was referred H. B. No. 17, have considered the same, and beg leave to report the same back to the Council, with the recommendation that it be referred to the Committee of the Whole for their action upon the same.

Report read and adopted.

On motion of Mr. Chiles, H. B. No. 14, being "An Act to authorize H. Clay Graves, Thomas Burden, and their associates, to construct and maintain a toll road," was taken up, and, on

motion of Mr. Bagg, the following amendment was made to section 2 :

*“ Provided, That a toll gate shall be erected within three miles of Red Mound City, on said road.”*

When, on motion, the rule was suspended, bill read third time by its title, and passed by the following vote :

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Moore, Orr, Phelps, Spratt, Tuttle, Waterbury, Wilkinson, Wilson, and Mr. President—13.

*Nays*—None.

The title was then agreed to.

On motion, C. B. No. 33, “An Act to incorporate the Blackfoot City Water Company,” was taken up, read third time, and passed by the following vote:

*Yeas*—Messrs. Brown, Galloway, Lowry, Moore, Orr, Phelps, Spratt, Tuttle, Waterbury, Wilkinson, Wilson, and Mr. President—12.

*Nays*—None.

The title was then agreed to.

On motion of Mr. Waterbury, the Council resolved itself into a Committee of the Whole upon Council Bills Nos. 18, 26, and 20, and also No. 16, being, respectively—

“An Act to incorporate the Clark’s Fork and Fort Benton Wagon Road Company.”

“An Act to amend an act to incorporate the Missouri River and Rocky Mountain Wagon Road and Telegraph Company.”

“An Act in relation to the pay of jurors in the courts of this Territory.”

“An Act defining the jurisdiction of the several courts of the Territory, and prescribing their duties.”

On motion of Mr. Bagg, the Committee arose at 12 M., and made the following report through their chairman, Mr. Waterbury :

Your Committee of the Whole, to whom was referred Council Bills Nos. 18, 26, 20 and 16, would respectfully report said bills back for the consideration of the Council.

On motion, the Council adjourned until 2 P. M.

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#### AFTERNOON SESSION.

Council called to order, at 2 P. M., by the President.

Roll called—absent, Messrs. Lowry, Moore, Phelps, and Waterbury.

Mr. Chiles, chairman of the Committee on Enrollment, made the following report :

Your Committee on Enrollment report C. B. No. 10, "An Act authorizing John Wilson and R. E. Eddy, their heirs, assigns and associates, to establish and maintain a ferry across the Mis-soula river :"

Also, C. B. No. 24, "An Act to authorize J. A. Johnston and C. F. McCarty, their heirs and assigns, to construct and maintain a toll bridge, or ferry, across the Hell Gate river,"

Correctly enrolled.

Report read and adopted.

Mr. Brown, chairman of Committee on Incorporations, made the

following report on H. B. No. 25, being "An Act to incorporate the Helena City Water Company":

Your Committee, to whom was referred H. B. No. 25, have had the same under consideration, and recommend its passage.

C. B. No. 26 was taken up, and read for information.

Mr. Spratt offered the following amendments:

*"Provided, Said company or incorporators shall, on or before the 1st day of July, 1867, build and complete that part of the road that lies between Virginia City to Sterling, at Hot Springs in Madison county, and, upon their failure to complete the same, the power conferred by this bill shall cease and be of no effect."*

Amendment adopted, and on motion of Mr. Bagg, bill and amendment was ordered engrossed.

C. B. No. 18, "An Act to incorporate Clark's Fork and Fort Benton Wagon Road Company," was taken up, read for information, and, on motion, was made special order of 23rd, at 3 P. M.

C. B. No. 19, "An Act to authorize Geo. Roff and John Creighton to establish and maintain a toll road and bridge in Beaver Head county," was read for information, and, on motion, the following amendments were adopted:

Strike out the words "at or near Selway Ranch, thence on the the nearest and most accessible route," in the 1st section.

Strike out the words "at any point," and insert "at the said bridge," in the 3rd section.

In section 7 insert the words "if it shall appear that it is caused by the negligence of the corporators," after words "as aforesaid."

In same section, add "where the fine is recovered," and strike out "said," before "county," and insert "the," instead thereof.

The bill was adopted as amended, and ordered to be engrossed.

On motion of Mr. Baggs, the Council adjourned until 10 o'clock A. M., to-morrow.

CHARLES S. BAGGS,  
*President.*

WM. Y. LOVELL,  
*Chief Clerk.*



## SEVENTEENTH DAY.

!NOVEMBER 23, 1866.

Council called to order by the President at 10 o'clock.

Roll called.

Journal read, corrected, and approved.

Mr. Brown, chairman of Committee on Incorporations, made report on C. B. No. 30, "A Bill to incorporate the Lemhi and Big Hole River Wagon Road and Bridge Company, as follows:

Your Committee, to whom was referred C. B. No. 30, have had the same under consideration, and beg leave to report the same back to the Council, and recommend the same do not pass.

Report received and adopted.

Mr. Galloway, chairman of Committee on Elections, to whom was referred C. B. No. 21, "A Bill to amend an act defining the Council and Legislative districts of the Territory of Montana, and apportioning the members of the Legislative Assembly thereof," begs leave to report a bill as a substitute for, and in substance the same.

Mr. Spratt, chairman of Committee on Judiciary, made a report on C. B. No. 25, being "A Bill for an act in relation to territorial library," having had the same under consideration, report the same back to the Council, recommending it to the consideration of the Committee of the Whole.

Report read and adopted.

Mr. Moore, chairman of Committee on Agriculture, made the following report on C. B. No. 7, being "An Act concerning

fences and fence reviewers, and to prevent animals trespassing upon private property."

Your Committee, to whom was referred C. B. No. 7, having the same under consideration, ask leave to report same back with the following amendments, and recommend its passage:

Amend section 2, by striking out the whole of the third line, and substitute "consent" or "agree."

Amend section 3, by striking out of line two the words "two or more viewers," and insert the words "fence viewer;" and by striking out from the third, fourth and fifth lines the word "they," whenever it occurs, and insert "he" instead.

Amend section 4, by striking from the second line the words "two or more fence viewers," and insert "the proper fence viewer;" and strike from the third line the word "their," and insert "his."

Amend section 5, by striking from the second line the words "two or more viewers," and insert "the fence viewer."

Amend section 6, by striking out the word "viewers" in second line, and insert "viewer."

Amend section 8, by striking from the second line the word "viewers," and insert "viewer;" and for the word "them," in third line, read "him."

Amend by striking out sections 10 and 11.

Amend section 12, by striking out from the fifth line the words "two or more proper viewers," and insert "the proper viewer."

Amend section 13, by making the word "viewers," in first line, read "viewer," and the words "their hands," in second line, read "his hand," and by making the word "viewers," in fifth line, read "viewer."

Amend section 14, by striking from the fourth line the words "two or more fence viewers," and insert "the fence viewer," and from the same line strike out "their hands," and insert "his hand."

Amend section 15, by striking from the third line the words "two or more fence viewers," and insert "the proper fence viewer," and amend fourth line to make "their hands" read "his hand."

Strike out sections 17, 18, and 19.

Amend by striking out sections 20 and 21, and substitute the following:

SEC. —. It shall be the duty of the county commissioners for

the several counties to appoint, at the first regular meeting in each year, a suitable person in each township, whose duty it shall be to act as fence viewer for his township, or any township in his county, in case any township in his county may be without a fence viewer.

SEC. —. It shall be the duty of any fence viewer to examine any fence in his township or county, when called on, in accordance with provisions of this act, and to grant certificates, when the persons claiming the same may be entitled to the same by having complied with this act.

SEC. —. Said commissioners shall be allowed for each certificate the sum of — dollars.

Or for an examination in case of a refusal to grant one on account of a non-compliance with the requirements of this act, to be paid by the party applying. And in case any suit occurs between any adjoining landholders, or joint owners of any partition fences, the fee allowed to the fence viewer shall be taxed against the party in default as other costs.

Amend section 23, by striking out all that follows the word "thereof" in the seventh line, including the word "days" in the eighth line, and by adding the following words to the section:

"*Provided*, it shall be the duty of any person claiming the benefit of the provision of Sections 22, 23 and 24, immediately after having been trespassed upon by any stock, to inform the owner of said stock, or animals, provided such owner is known to him, and resides in the county where the trespass was committed, and shall have a lien upon all the stock so trespassing; and may, forthwith, bring an action before any justice of the peace in the township, if the damages asked do not exceed one hundred dollars; if over that amount, in the proper court; and service shall be had as in other civil actions."

Mr. Phelps, Chairman of Committee on Engrossment, reported on C. B. No. 19, "An Act to authorize Geo. Roff and John A. Creighton to establish and maintain a toll road and bridge in Beaver Head county," and C. B. No. 26, "An Act to amend an act to incorporate the Missouri River and Rocky Mountain Wagon Road Company," that they have examined the same, and they are correctly engrossed.

Communication from the House was then read.

The following bill was introduced in the House by Mr. Esler:

H. B. No. 35, "An Act to secure persons, animals and wagons from danger arising from mining and other excavations."

Also, that the following bills have passed the House, with amendments:

C. B. No. 31, "An Act supplementary to an act in relation to notaries public."

Amendments herewith presented.

In Section 1, strike out "fifteen," and insert "five."

H. B. No. 15, "An Act to incorporate the Missouri River Boom and Lumber Company."

Also, that C. J. R. was passed, with the following amendment:

Strike out the names "John Peyton Tiernan," and "Judge Turnley."

Mr. Chiles, chairman of Committee on Enrollment, reported that C. B. No. 10, "An Act authorizing John Wilson and R. E. Eddy, their heirs, etc., to establish and maintain a ferry over the Missoula river ;"

Also, C. B. No. 24, "An Act to authorize J. A. Johnson and C. F. McCarty, their heirs, etc., to construct and maintain a toll bridge or ferry across Hell Gate river," were handed to his Excellency the Governor, at 4 o'clock yesterday afternoon, for his approval.

The following communication was received from the attorneys of Helena, and read and referred to a Select Committee on Practice:

HELENA, November 19, 1866.

HON. CHAS. S. BAGG, *President of the Council*:

SIR — The undersigned practicing attorneys in the county of Edgerton, beg leave to state through you, to the members of the Council, that we most cordially indorse the suggestion of Governor Smith in his message, that "a civil code of practice is much needed, and it seems to me that the Legislature can with propri-

ety, and certainly with economy, adopt almost entirely that of California."

The Territory is so much like California in every respect, that nearly all the cases for adjudication can find a precedent in those settled by that practice, and in their reports.

You will, by the adoption of this practice, and the purchase of the reports, have the experience of almost twenty years, and the opinions of the Supreme Court of the United States, and a settled and uniform practice throughout the Territory; and we earnestly recommend that the same may be adopted as a civil code of practice act for the Territory of Montana.

Your obedient servants,

(Signed)	JAS. M. CAVENAUGH.	M. B. HARRISON.
	GEORGE MAY.	J. J. WILLIAMS.
	WM. Y. PEMBERTON.	U. P. A. SMITH.
	W. F. CHADWICK.	J. DISKICK.
	JOHN H. SHOBER.	I. C. VINTON.
	HY. BURDICK.	R. LAWRENCE.

Communication from the Governor, approving C. B.'s Nos. 10 and 25, was read.

A communication from the Territorial Auditor was read.

Mr. Moore offered the following resolution, which was received and adopted:

*Resolved*, By the Council, the House concurring, that a committee of two from each House of the Legislative Assembly, be appointed to wait upon the Territorial Auditor, inquiring whether said Auditor has audited any accounts contrary to the laws of this Territory, or whether any account has been audited by him without authority of law, and report the facts to their respective Houses.

Messrs. Moore and Orr were appointed such committee on the part of the Council.

The amendment made by the House, to C. B. No. 31, "in relation to notaries public," to strike out "fifteen," and insert



"five," was concurred in, and referred to Committee on Enrollment.

The amendment made by the House, to C. J. R. No. 4, relative to the Paris Exhibition, was not concurred in.

H. B. No. 16, "An Act authorizing C. Francisco and D. Abbott to construct a ferry across Sun river."

Read first and second time by its title, and referred to Committee on Incorporations.

H. B. No. 29, "An Act to provide payment of costs by counties attached to others for judicial purposes," etc.

Read first and second time by its title, and referred to Committee on Judiciary.

H. B. No. 15, "An Act to incorporate the Missouri River Boom and Lumber Company," was read first and second time by its title, and referred to Committee on Incorporations.

C. B. No. 19, "An Act to authorize John Roff and John A. Creighton to establish and maintain a road and bridge in Beaver Head county," was lost by the following vote:

*Yeas*—Messrs. Lowry, Moore, Orr, Spratt and Wilson—5.

*Nays*—Messrs. Chiles, Galloway, Phelps, Tuttle, Waterbury, Wilkinson, and Mr. President—7.

Mr. Chiles moved to reconsider the vote.

Mr. Phelps moved to lay the motion to reconsider on the table. Motion lost.

The motion to reconsider was carried; the vote was then taken on the final passage, and bill passed by the following vote:

*Yeas*—Messrs. Brown, Galloway, Lowry, Moore, Orr, Spratt, Tuttle, Waterbury, Wilson, and Mr. President—10.

*Nays*—Messrs. Chiles, Phelps, and Wilkinson—3.

On motion, the Council adjourned to 2 o'clock, P. M.

## AFTERNOON SESSION.

Council called to order by the President.

Roll called—absent, Mr. Moore.

Council went into Committee of the Whole. Mr. Brown in the chair.

On motion of Mr. Bagg, the committee arose to report progress.

On motion, the Council adjourned to 10 o'clock, A. M., to-morrow.

CHARLES S. BAGG,

*President.*

WM. Y. LOVELL,

*Chief Clerk.*



## EIGHTEENTH DAY.

[NOVEMBER 24, 1866.]

Council called to order by the President, at 10 A. M.

Roll called—absentees, Messrs. Lowry, Wilkinson, and Waterbury.

Journal read, corrected, and approved.

Mr. Chiles, chairman of Committee on Enrollment, made the following report :

Your Committee on Enrollment report C. B. No. 31, "An Act supplementary to an act in relation to notaries public," correctly enrolled.

Mr. Spratt, chairman of Committee on Judiciary, made the following report :

Your Committee, to whom was referred C. B. No. 35, "An Act in relation to officers failing to make reports as required by law," having had the same under consideration, beg leave to report it back to the Council, and recommend its passage.

Mr. Brown, chairman of Committee on Incorporations, made report as follows :

Your Committee of the Whole, to whom was referred H. B. No. 17, being "An Act to invest religious, charitable and educational societies with certain powers of bodies corporate," would most respectfully report that they have duly considered the several provisions of the same, and refer the same back to the Council, recommending its passage.

Report received and adopted.

Mr. Wilkinson, chairman of Special Committee, to whom was referred C. B. No. 22, "To erect a hospital, etc.," having had the same under consideration, beg leave to report a substitute, and recommend its passage.

Report received, and referred to Committee of the Whole.

Mr. Lowry gave notice that, on to-morrow or some subsequent day, he would introduce a bill for "An Act entitled an act authorizing C. Rumley, C. Robinson, Charles Dorr and Owen Gilman, to construct a wagon road from Helena, in Edgerton county, to New York City, in Meagher county, and ferry across Missouri river."

Mr. Phelps gave notice that, on to-morrow or a future day, he would ask leave to introduce a bill entitled "An Act to incorporate the town of Clarkson."

Mr. Moore offered the following resolution :

*Resolved*, By the Council, the House concurring, that a Committee of two from the Council, and three from the House, be appointed, whose duty it shall be to learn all the facts they can in regard to Choteau county, and the failure of the various officers to discharge their duty, and report the same to their respective Houses.

Adopted; and Messrs. Moore and Waterbury appointed Committee on the part of the Council.

H. B. No. 25, "An Act to incorporate the Helena City Water Company," was read for information.

On motion, the rule was suspended, bill read third time, and passed by the following vote :

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Moore, Orr, Phelps, Spratt, Tuttle, Waterbury, Wilson, and Mr. President—12.

*Nays*—None.

Title agreed to.

C. B. No. 26, "An Act to amend an act to incorporate the Missouri River and Rocky Mountain Wagon Road and Telegraph Company," was read third time, rules suspended, and bill passed by the following vote :

*Yeas*—Messrs. Brown, Lowry, Phelps, Spratt, Tuttle, Waterbury, Wilkinson, and Mr. President—8.

*Nays*—Messrs. Chiles, Galloway, Moore, Orr, and Wilson—5.

Title agreed to.

A message from the Governor on the subject of certain appointments, was received.

The following communication from the House was received :

Notice was given by Mr. Mimms that he would introduce a bill for "An Act concerning the collection of taxes in Choteau county."

Also, a joint resolution, asking Congress to amend the Organic Act, so as to increase the pay of federal appointees, and the per diem of the members of the Legislative Assembly of this Territory."

Mr. Johnson, having previously given notice, introduced H. B. No. 36, "An Act to incorporate the Madison River Bridge Company."

Mr. Smith, under previous notice, introduced H. B. No. 37, "An Act locating the seat of government in and for the Territory of Montana."

Mr. McMurtry, with previous notice, introduced H. B. No. 38, "An Act to protect bridges, mills, dams, flumes, etc."

Mr. McMurtry, by previous notice, introduced H. B. No. 39, "An Act to amend an act entitled an act creating the office of district attorney, fixing salaries, etc."

Mr. Wylie introduced H. B. No. 40, "An Act to amend an act entitled an act defining the duties of county treasurers, and the payment of county warrants."

C. B. No. 15 was amended by the House, and passed.

Mr. Phelps, chairman of Committee on Engrossment, made the following report :

Your Committee on Engrossment have examined C. B. No. 35, "An Act in relation to officers failing to make reports, as required by law," and find the same correctly engrossed.

The bill was then read third time, and passed by the following vote :

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Moore, Orr, Phelps, Spratt, Tuttle, Waterbury, Wilkinson, Wilson, and Mr. President—13.

Title agreed to.

The Council went into executive session on the Governor's message.

The session arose, and, on motion, the Council adjourned to Monday morning, at 10 o'clock.

CHAS. S. BAGG

*President.*

W. Y. LOVELL,

*Chief Clerk*

## NINETEENTH DAY.

NOVEMBER 26, 1866.

Council called to order by the President at 10 o'clock, A. M.

Roll called—absentees, Messrs. Brown, Chiles, Lowry, Spratt, and Tuttle.

Journal read and approved.

Mr. Orr, chairman of Committee on Federal Relations, made the following report :

Your Committee on Federal Relations, to whom was referred the joint memorial, asking Congress for increased pay of federal officers, having the same under consideration, ask leave to report the same back to the Council, with a recommendation that it pass.

Report received and adopted.

Mr. Wilkinson gave notice that he would introduce "A Bill authorizing Robert Tingley and his associates to construct a wagon road around the falls of the Missouri river."

Mr. Orr gave notice that he would introduce "A Bill in relation to mines and miners."

Mr. Spratt gave notice that he would introduce "A Bill regulating the mode and manner of change of venue in civil actions."

H. B. No. 17, "To invest religious societies, etc., with certain

powers of bodies corporate," was read, rules suspended, bill was read by its title, and passed by the following vote:

*Yeas*—Messrs. Galloway, Lowry, Moore, Phelps, Tuttle, Wilkinson, Wilson, and Mr. President—8.

*Nays*—Messrs. Brown, Chiles, Orr, Spratt, and Waterbury—5.

Mr. Orr moved to amend by striking out the title, and substituting the following:

"An Act in relation to religious, charitable and educational societies."

Mr. Spratt moved to amend the amendment by substituting the following:

"A Bill to unite church and state." Lost.

Mr. Orr's amendment was taken up, and lost.

The title was then agreed to.

C. B. No. 18, "To incorporate Clark's Fork and Fort Benton Wagon Road Company," was ordered engrossed.

C. B. No. 27, "An Act respecting executors and administrators," was ordered engrossed, and passed to a third reading.

C. B. No. 20, "A Bill in relation to the pay of jurors," was read, and referred to Special Committee on Civil Practice Act."

Mr. Chiles moved that Joint Resolution No. 4 be indefinitely postponed. Lost.

Mr. Bagg moved that the Clerk inform the House that the Council do not concur in the amendment to J. R. No. 4, and request the House to recede from its amendment.

Motion carried, and the Clerk informed the House accordingly.

C. B. No. 21, "A Bill defining the Council and Representative districts, and apportioning the members of the Legislative Assembly," was read.

Mr. Chiles moved that the substitute of the Committee, entitled "An Act concerning the Legislative Assembly of the Territory of Montana," be read.

Substitute read first and second time by its title, ordered to be printed, and referred to the Committee of the Whole.

C. B. No. 23, "A Bill incorporating the Beaver Head County Gold and Silver Mining and Manufacturing Company."

Read by its title, and, on motion of Mr. Phelps, the bill was laid on the table.

Mr. Phelps, by consent, introduced Joint Memorial to Congress, "To appropriate fifty thousand dollars to erect capitol buildings."

Read first and second time, and referred to Committee on Federal Relations.

On motion, the Council took a recess until 2 o'clock, P. M.

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#### AFTERNOON SESSION.

Council met at 2 o'clock.

Roll called—absent, Mr. Wilson.

The Committee resolved itself into Committee of the Whole on C. B. No. 7, "A Bill concerning fences and fence viewers." Mr. Waterbury in the chair.

The Committee arose, with leave to sit again.



Mr. Chiles, chairman of Committee on Enrollment, made the following report :

Your Committee on Enrollment placed for approval in the hands of His Excellency Gov. Smith, at 12 o'clock this day, C. B. No. 31, "An Act supplementary to an act in relation to notaries public."

Mr. Brown, Chairman of Committee on Incorporations, made report, as follows :

Your Committee, to whom was referred H. B. No. 16, "A Bill to authorize Charles Francisco and David Abbott to construct a ferry on Sun river," have duly considered the same, and beg leave to report the same back to the Council, recommending that the bill be referred to the Committee of the Whole.

Report received and adopted.

Mr. Waterbury, chairman of Committee of the Whole, to whom was referred C. B. No. 7, "A Bill concerning fences and fence viewers," report :

Your Committee respectfully report progress, and ask leave to sit again upon said bill.

Report received and adopted.

Mr. Phelps, chairman of Committee on Engrossment, to whom was referred Council Bills Nos. 18 and 27, would report the same correctly engrossed.

On motion, the Council adjourned until 10 o'clock to-morrow morning.

CHARLES S. BAGG,  
*President.*

WM. Y. LOVELL,  
*Chief Clerk.*

## TWENTIETH DAY.

NOVEMBER 27, 1866.

Council called to order by the President at 10 o'clock.

Roll called—absentees, Messrs. Chiles, Moore, and Phelps.

Journal read and approved.

Mr. Spratt presented a petition from citizens of Virginia City, to repeal the city charter of said city.

Mr. Wilkinson moved to lay the petition on the table, which was lost.

Names of signers of petition were being read, when, on motion of Mr. Chiles, the further reading was dispensed with.

The petition was referred to a Select Committee, consisting of Messrs. Lowry, Spratt, and Orr.

Mr. Wilkinson, by previous notice, introduced "A Bill authorizing Robert Tingley and associates to construct a wagon road round the falls of the Missouri river."

Read first and second time by its title, and referred to Committee on Incorporations.

Mr. Lowry, by previous notice, introduced "A Bill authorizing C. Rumley and others to construct a road from Helena to New York City, and a ferry across the Missouri river."

Read first and second time by its title, and referred to Committee on Incorporations.

A message was received from the House as follows:

The following bills were introduced under previous notice:

By Mr. Donegan, H. B. No. 43, "An Act to incorporate the Virginia City and Nevada Fluming Company."

By Mr. Clanton, H. B. No. 44, "An Act granting to Lycurgus Orr the right to construct a wagon road."

By Mr. Buck, H. B. No. 45, "An Act to amend an act defining the boundary lines in counties in this Territory, approved March 30, 1866."

By Mr. Mimms, H. B. No. 46, "An Act concerning the collection of taxes in Choteau county."

By Mr. Mimms, H. J. R. No. 2, "Asking Congress to amend an act to increase the compensation of federal officers, etc."

H. B. No. 12, "An Act to authorize Constant Guyot to construct a toll road from Little Blackfoot river to Helena City," was passed by a two-thirds vote notwithstanding the Governor's objections, as herewith presented:

EXECUTIVE OFFICE, VIRGINIA CITY, M. T., }  
November 22, 1866. }

GENTLEMEN—I return without approval H. B. No. 12, which originated in the House of Representatives, entitled "An Act to authorize Constant Guyot to construct and maintain a toll road from the Little Blackfoot river to the Ten Mile and Helena Road," with my objections thereto.

Laws, which grant special privileges to individuals or companies, should contain obligations or penalties as binding upon individuals and companies as upon the community to be affected by the law.

Section 4 of this bill permits Mr. Guyot to charge and collect from travelers (footmen excepted), certain rates of toll, and there can be no question but that all tolls, by some process or other, can be collected. In fact, no one traveling, as prescribed in this section, can go over the road without paying toll.

This is well enough under certain circumstances, but in section 3 it reads: "That Constant Guyot, his heirs and assigns, be required to keep the said road, when completed, in good repair and condition, so as at all seasonable times to render transportation and travel both speedy and safe."

How, or by what means, Mr. Guyot, his heirs and assigns, are

to be compelled to comply with this provision of the charter, the bill does not provide; and any complaint on the part of persons paying toll would be useless and waste of time.

Again, who is to determine when the road is kept in good repair and condition, so as at all seasonable times to render transportation and travel speedy and safe? Mr. Guyot, his heirs and assigns, are certainly not the proper parties. Impartial and disinterested men should be selected for such a purpose.


The road is to be finished in twelve months, but the toll gate may be established now; requiring travelers to pay toll while a great portion of the road is unfinished. It may be said that Mr. Guyot is unable to complete the road without assistance from tolls. It that be true, at least one-half of the road could be put in good condition, and received by the county commissioners, before a toll gate is erected. I have no objection to opening new routes by private enterprise; on the contrary, rather commend it; but believe the community traveling such route shall be protected against wrong and imposition, and there is no better way to do so than by law.

With equal checks and protection, there can, in my opinion, be no objection to this bill.

(Signed)

GREEN CLAY SMITH.

Mr. Chiles moved to reconsider H. B. No. 12, "An Act authorizing Constant Guyot to construct a toll road from Little Black-foot City to Helena." Carried.

Bill read, and passed by the following vote: 

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Phelps, Spratt, Tuttle, Waterbury, Wilkinson, Wilson, and Mr. President—11.

*Nay*—Mr. Orr.

Absent—Mr. Moore.

Bill passed by a two-thirds majority, notwithstanding the Governor's objections.

C. B. No. 15, "An Act for increased compensation, etc.," was returned with following amendments:

Strike out section 1.

Amend section 2 after the words, "a per diem compensation as follows," so as to read: "To each member of the Assembly, during his attendance, the sum of ten dollars; to each of the chief clerks, ten dollars; each of the assistant engrossing and enrolling clerks, eight dollars; each sergeant-at-arms, eight dollars; each door-keeper, eight dollars; each fireman, fourteen dollars; each page, eight dollars."

Strike out section 3. Make section 2 section 1; section 4 section 2, and section 5 section 3.

On motion of Mr. Waterbury, the Council did not concur in the amendments, and requested the House to recede from its amendments of the same.

C. B. No. 18, "Incorporating Clark's Fork and Fort Benton Wagon Road Company," was read third time, and passed by the following vote:

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Orr, Phelps, Spratt, Tuttle, Waterbury, and Mr. President—10.

*Nays*—Messrs. Wilkinson and Wilson—2.

Title agreed to.

C. B. No. 27, "An Act respecting executors and administrators," was read third time, and passed by the following vote:

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Orr, Phelps, Spratt, Tuttle, Waterbury, Wilkinson, Wilson, and Mr. President—12.

*Nays*—None.

Title agreed to.

Mr. Brown, chairman of Committee on Incorporations, made the following report:

Your Committee, to whom was referred H. B. No. 24, "For John Swartz and others to construct a ditch from Deer Lodge creek to Silver Bow creek, etc.;" and C. B. No. 5, "For George Humphrey and others to construct a ditch from Deer Lodge creek, etc."

The parties in both bills claim the same right or franchise.

Find, from the evidence in our possession, that John Noyes and John Swartz recorded the water right, claimed in said bills in controversy, on September 13th, 1866, at 8 o'clock, A. M., as appears by the certificate of the Recorder of Deer Lodge county, herewith filed, and marked "Exhibit A."

Your Committee would further state that it appears, from the evidence and facts stated by both claimants and others, that Noyes, Swartz and Clark commenced on the line of said ditch on or about the thirteenth day of September, 1866, and have, with several hands, worked continually from that time to the present, having completed some nine miles of the ditch, at a cost of some seven thousand dollars.

Your Committee would further represent that the claimants in C. B. No. 5, Humphrey & Co., recorded the water claimed in H. B. No. 24, on September 27, 1866; that about one month since the said Humphrey & Co. constructed a dam in said Deer Lodge creek, and turned the water out of the same. Also, that Humphrey & Co. have done some \$70 or \$80 worth of work on the same. Humphrey's certificate attached, marked "B."

Your Committee would beg leave to report H. B. No. 24, and C. B. No. 5 back to the Council, with the recommendation that H. B. No. 24 do pass.

Report received, and Committee discharged.

The following communication was received :

I am directed by the Governor to inform the Council that he has this day approved C. B. No. 31, "An Act supplementary to an act in relation to notaries public."

The Council then went into Committee of the Whole, on H. B. No. 7. Mr. Waterbury called to the chair.

Committee arose, and Council resumed its session.

Mr. Orr, chairman of Committee on Federal Relations, made the following report :

Your Committee on Federal Relations, to whom was referred



Joint Memorial to Congress, "Asking an appropriation of fifty thousand dollars to erect capitol buildings," ask leave to report the same back to the Council, and recommend it pass, with the following amendment:

Amend by striking out "\$50,000 to erect capitol buildings," and insert "\$100,000 to erect public buildings."

Report received and adopted.

Mr. Orr, chairman of Committee on Federal Relations, to whom was referred the Joint Memorial to Congress, "Asking for an appropriation for surveys and the establishment of a surveyor general's office," having had the same under consideration, ask leave to report the same back to the Council, and recommend that it pass.

Report received and adopted.

Council then took a recess until 2 o'clock, P. M.

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#### AFTERNOON SESSION.

Council called to order at 2 o'clock, P. M.

Roll called—all present.

Mr. Brown, made the following report:

Your Committee of the Whole, to whom was referred C. B. No. 25, "A Bill in relation to the territorial library," beg leave to report progress, and ask leave to sit again.

Report received and adopted.



Mr. Waterbury, chairman of the Committee of the Whole, made the following report :

The Committee of the Whole would respectfully report back C. B. No. 21, "An Act defining representative districts, apportioning the members, etc.," with the following amendments :

In section 2, between the words "held " and "in," where it occurs at the end of the first line, insert "on the first Monday."

In section 3, in second line, between the words "held " and "in," insert "on the first Monday."

Strike out, in 5th line of section 4, the word "Secretary, ' and insert the word "Governor."

Strike out section 5 of the act, and insert the following :

"SEC. 5. That the Fourth Legislative Assembly of the Territory of Montana shall consist of the thirteen members of the Council, elected at the general election held on the first Monday of September, A. D. 1866, to hold said office for two years, and such other members as may be elected to fill any vacancies that may occur, and twenty-six members of the House of Representatives, to be elected as provided for in this act.

"The Legislative Assembly to convene at the seat of government, on the first Monday of December, A. D. 1867, at noon of said day."

"SEC. 6. All acts or parts of acts conflicting with the provisions of this act, are hereby repealed."

Number section 6 section 7.

Amend by adopting title of the bill with the above amendments to the bill.

We would report the same back to the Council, with the recommendation that it do pass.

Report received and adopted as amended, and, on motion of Mr. Chiles, the bill was ordered engrossed and passed to a third reading.

Mr. Waterbury, chairman of Committee of the Whole, made the following report on C. B. No. 7, "An Act concerning fences and fence viewers."

The Committee, to whom was referred the above named bill, have had the same under consideration, and would respectfully submit the following amendments :

That section 1 be amended, as follows :

Strike out, after the word "thereto," in the 7th line, to the word "shall," in the 10th line.

Insert, between the words "four" and "feet," in first line of section 1, "and a half."

Strike out all the sections after section 1 of the bill, and add to section 1 the following :

"SEC. 2. All acts or parts of acts inconsistent with the provisions hereof be, and the same are hereby repealed.

"This act to take effect on and after its passage."

Bill, as amended, was adopted, ordered engrossed, and passed to a third reading.

On motion of Mr. Brown, H. B. No. 24, "An Act for John Swartz and others to construct a ditch from Deer Lodge creek to Silver Bow creek, etc.," was taken up, rules suspended, read third time, and passed by the following vote :

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Moore, Phelps, Spratt, Tuttle, Waterbury, Wilson, and Mr. President—11.

*Nay*—Mr. Orr.

Title agreed to.

Council went into Committee of the Whole on C. B. No. 25, "An Act in relation to the territorial library." Mr. Brown in the chair.

Committee arose, and Council resumed.

Mr. Chiles, chairman of Select Committee, made the following report :

Your Select Committee, to whom was referred C. B. No. 34,

"An Act to divorce Frances McCormick from the bonds of matrimony contracted with Isom McCormick," would respectfully ask leave to report that the parties named in the title of the bill have been lawfully married, and are still so; that the said parties have several children as the fruits of such matrimonial alliance; that the husband, the said Isom McCormick, has entirely deserted the said Frances McCormick and her children, and is now a resident of an adjoining Territory; that the said Isom McCormick has totally failed and neglected to provide for his said wife and children; and that the said Frances McCormick supports herself and children by her own exertions. Wherefore, in view of the above state of facts, your Committee would report said bill favorably to the Council, and recommend its passage.

Report received and adopted, and Committee discharged; and, on motion of Mr. Chiles, bill ordered engrossed, and passed to its third reading.

The following resolution was offered by Mr. Waterbury:

*Be it resolved, by the Legislative Council of the Territory of Montana,* That we tender the use of the Council Hall to the Governor of our Territory one night in each week, the night to be selected by the Governor, during the present session of the Legislature.

Adopted.

C. B. No. 30, "An Act to incorporate the Lemhi and Big Hole River Wagon Road, etc.," was taken up, and recommitted to Committee of the Whole.

Joint Memorial, "To increase pay of officers of this Territory," taken up, considered engrossed, and read the third time.

On motion of Mr. Spratt, the Memorial was amended by making the amount \$4,000 to the federal officers, and to the members and attachees of the Legislature, \$10 per day.

The Joint Memorial then passed by the following vote :

*Yeas*—Messrs. Brown, Chiles, Galloway, Moore, Orr, Spratt, Tuttle, Waterbury, Wilkinson, Wilson, and Mr. President—11.

*Nays*—None.

Title agreed to.

On motion, Council adjourned until 10 o'clock, A. M., to-morrow.

CHAS. S. BAGG,  
*President.*

WM. Y. LOVELL,  
*Chief Clerk.*

## TWENTY-FIRST DAY.

NOVEMBER 28, 1866.

Council called to order by the President at 10 o'clock.

Roll called—all present.

Journal corrected and approved.

Mr. Brown, chairman of Committee on Incorporations, made the following report :

Your Committee, to whom was referred H. B. No. 15, "A Bill to incorporate the Missouri River Boom and Lumber Company," having had the same under consideration, beg leave to report the same back to the Council, and recommend its passage.

Read and adopted.

Mr. Brown's report on C. B. No. 25, in relation to territorial library, was recommitted to Committee of the Whole.

Mr. Phelps, chairman of the Committee on Engrossment, reports :

The Committee to whom was referred C. B. No. 34, and Joint Memorial to Congress for increase of pay to Federal officers, etc., would report the same correctly engrossed.

Mr. Galloway, chairman of Committee on Mines and Minerals, to whom was referred C. B. No. 1, "An Act to regulate and license foreign miners," beg leave to report the same back to the Council, with amendments, and recommend its passage.

Amend section 2 by striking out the whole of said section and insert the following instead:

"The county sheriff of each county shall be the collector of foreign miners' license tax under the provisions of this Act, who, before entering upon his duties herein provided for, shall enter into bond to the Territory with two or more securities, to be approved by the board of county commissioners, in the sum of ten thousand dollars, conditioned for the faithful performance of the duties required of him by this act, which bond shall be filed in the office of the clerk of said county.

"The sheriff shall have power and it is hereby made his duty to appoint a sufficient number of deputies to assist him in the collection of the tax provided to be collected by this act, said deputies to be paid not less than ten per cent. on all sums collected by them.

"And the sheriff shall be responsible for the acts of said deputies, and may require from them such bond and surety as he may deem proper for his own indemnification, and for such service he shall be entitled to receive three per cent. on all moneys collected by them."

Amend section 5, line 2, by striking out the words "three days," and insert instead, the words "one hour."

Amend by striking out section 7 from the bill.

Amend section 8 by making it section 7.

Report received, and adopted as amended.

Mr. Lowry made the following report:

Your Select Committee to whom was referred petition No. 1, for repeal of the city charter of Virginia City, having had the same under consideration and made inquiry upon the subject, have directed me to report, that although there are many citizens in favor of the repeal of said charter, there are also very many opposed thereto, and to ask for more time to thoroughly investigate the subject.

Received and adopted, and Committee granted further time.

Mr. Lowry, chairman of Joint Committee appointed to revise the license laws of this Territory, having had the subject under



consideration, have directed me to report that they have made progress therein but have not yet gone through the subject, and to ask further time. Granted.

On motion of Mr. Waterbury, the Committee on Civil Practice Act was authorized to employ a clerk.

Mr. Chiles, by previous notice, introduced C. B. No. 38, "An Act concerning penal bonds.

Read first and second time, and referred to Committee on Judiciary.

Mr. Phelps, by consent, introduced C. B. No. 39, "An act to repeal section 32 of an act relative to elections."

Read first and second time, by its title, and referred to Committee on Elections.

Mr. Spratt, by consent, introduced C. B. No. 40, "An Act to authorize D. A. G. Floweree and others to construct and maintain Bed Rock Flume in Dry Gulch, Edgerton county."

Read first and second time, and referred to Committee on Incorporations.

Mr. Galloway, by previous notice, introduced C. B. No. 41, "An Act to provide revenue, and collecting the same, for Territorial and county purposes."

Rules suspended, bill read first and second time by its title, and referred to Committee on Ways and Means.

On motion of Mr. Waterbury, Council Memorial No. 3, "Asking appropriation to re-open the National Road across the Bitter Root Mountain," was read first and second time.

Rules were suspended, bill read third time, and passed by the following vote :

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Moore, Orr, Phelps, Spratt, Tuttle, Waterbury, Wilkinson, Wilson, and the President—13.



Mr. Lowry, by consent, gave notice that he will ask leave to introduce a bill for "An Act granting R. Herreford, M. P. Lowry and William Carter, a right to establish a toll road in Lost Horse Gulch."

A motion, by Mr. Spratt, that all memorials be printed, was carried.

Message from the House received as follows :

The House receded from their amendments to C. J. R. No. 4.

The following notices for the introduction of bills were given :

By Mr. Buck—An Act authorizing certain parties to construct a Bed Rock Flume in Dry Gulch, Edgerton county."

By Mr. Andrews—"An Act to create an office of Adjutant General, and to organize the militia."

By Mr. Blakely—"An Act to authorize F. Donan to maintain a toll bridge on the West Gallatin river."

By Mr. Mimms—"An Act to prevent the marriage of negroes, whites, etc.;" also, a resolution asking Congress to amend the organic act so as to establish Common Pleas Courts.

The following bills were introduced Nov. 26 :

By Mr. Blakely—H. B. No. 47, "An Act to incorporate the Helena and Blackfoot City Wagon Road."

Mr. Johnson introduced J. M. No. 3; and C. B. No. 33, "An Act to incorporate the Blackfoot City Water Company," was passed Nov. 26.

C. B. No. 28, "An Act requiring criminals to perform labor," was passed Nov. 26.

Also, C. B. No. 9, "A Bill for an act in relation to contracts, etc."

Also, H. B. No. 39, "An Act to amend an act entitled an act creating the office of district attornies, etc."

Nov. 27—Mr. Johnson, on leave, introduced H. B. No. 48, "An Act concerning roads, bridges, etc."

Mr. Rogers introduced H. B. No. 49, "An Act to amend an act to incorporate the Montana Ferry and Bridge Company."

Mr. Mimms introduced H. B. No. 50, "An Act defining the boundary lines of counties of Montana Territory."

Mr. Esler introduced H. B. No. 51, "An Act to incorporate the Legal Tender Tunneling Company."

Council Resolution, to appoint two from the Council and three from the House to ascertain the facts in regard to Choteau county, was adopted, and Messrs. Roach, Johnson and Buck were appointed on the part of the House.

Mr. McMurtry gave notice, that he would introduce "A Bill to incorporate the Little Prickly Pear Wagon Road Company."

Mr. Chiles moved that the Council concur in the amendments of the House on C. B. No. 33, "A Bill to incorporate the Black-foot City Water Company."

To strike out of section 3 after the word "Territory" in third line from the bottom of the section.

Add the following section after section 5 :

"SEC. 6. The said Company shall collect the following rates for the use of said water :

Hotels, per week,	\$2 00
Private boarding houses, per week,	1 50
Restaurants, per week,	2 00
Families, each, per week,	1 50
Mess, or each person, per week,	50
Barber's shop, per week,	2 50
Wholesale and retail drug stores, each, per week,	1 50
Saloons, per week,	2 00
Butcher's shops, per week,	2 00
Water used in making mortar, per day,	1 00

"The county commissioners of Deer Lodge county shall have the power to alter or modify the above rates at any time they may deem proper."

H. B. No. 39, "Creating the office of district attorneys, etc.," was read first and second time, and indefinitely postponed.

Mr. Lowry moved to reconsider the vote to indefinitely postpone, which motion was laid on the table.

H. B. No. 15, "To incorporate the Missouri River Boom and Lumber Company," was read third time, and passed by the following vote:

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Moore, Orr, Phelps, Spratt, Wilkinson, Wilson, and Mr. President—11.

*Nay*—Mr. Waterbury.

C. B. No. 34, "To divorce Frances McCormick from the bonds of matrimony with Isom McCormick," was read third time, and passed by the following vote:

*Yeas*—Messrs. Brown, Chiles, Lowry, Moore, Spratt, Wilkinson, and Wilson—7.

*Nays*—Messrs. Galloway, Orr, Phelps, Waterbury, and Mr. President—5.

Mr. Phelps, chairman of Committee on Engrossment, made the following report:

Your Committee on Engrossment, to whom was referred C. B. No. 21, have examined the same and find it correctly engrossed.

Bill read third time.

C. B. No. 21, "To amend an act defining the representative districts and apportioning the members, etc.," was passed by the following vote:

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Moore, Orr, Phelps, Spratt, Waterbury, Wilkinson, and Mr. President—11.

*Nays*—None.

Council resolved itself into Committee of the Whole on H. B. No. 16.

Committee arose.

Council took a recess until 2 o'clock, P. M.

## AFTERNOON SESSION.

Council called to order by the President at 2 o'clock, P. M.

Roll called—absent, Messrs. Lowry, Phelps, Spratt, and Waterbury.

Mr. Brown, by consent, made the following report:

The Committee on Incorporations, to whom was referred C. B. No. 36, being "An Act to authorize Robert Tingley and associates to construct a wagon road round the falls of the Missouri river," beg leave to report the same back to the Council, and recommend its passage, with the following amendments:

In section 4, 6th line, strike out the word "three," and insert "two."

In 8th line, strike out the words "one dollar," and insert "seventy-five cents."

In 10th line, strike out the words "two dollars," and insert "one dollar and fifty cents."

In line 12, strike out the words "one dollar," and insert "fifty cents."

In line 13, strike out the words "fifty cents," and insert "twenty-five cents."

Strike out 14th line.

Amend section 5 so as to read section 9, and substitute the following:

"SEC. 5. That Robert Tingley and associates shall, after completion of said road, keep the same in good repair and condition to accommodate the traveling community, and if any accident shall happen to person or property while passing over said road, in consequence of its being in an unsafe condition for travel, the same being known to the said Robert Tingley and his associates, said Tingley and his associates shall be responsible for all damages thus sustained.

"They shall erect, before proceeding to demand toll on said road, a notice in some conspicuous point on said road, the rates of toll plainly inscribed thereon.

"SEC. 6. The county commissioners of said Choteau county shall have the right, after one year of the completion of said road, to reduce and regulate the rates of toll maintained in section 4 of this act.

"SEC. 7. That any subsequent Legislative Assembly of the Territory of Montana shall have the power to modify or amend this act.

"SEC. —. This act not to interfere with prior vested rights."

All of which is respectfully submitted.

Report received and adopted, and bill ordered engrossed for third reading.

The Council then resolved itself into Committee of the Whole, on C. B. No. 30. Mr. Chiles in the chair.

Committee arose, and Council resumed business.

Substitute to C. B. No. 22, "An Act to authorize the county commissioners of Edgerton county to erect or purchase a hospital," was adopted in place of the original bill.

Rules were suspended, bill read first and second time, and referred to Committee of the Whole.

Mr. Chiles called up C. B. No. 5, "Authorizing Humphreys and others to construct a ditch in Deer Lodge creek," which was indefinitely postponed.

Mr. Wilson, chairman of Committee of the Whole, by consent, made the following report:

Your Committee of the Whole would report that they have had H. B. No. 16, "An Act to authorize Charles Francisco and David P. Abbott to construct a ferry on Sun river," under consideration, and would ask leave to report the same, with amendments, back to the Council, and recommend its passage.

The amendments are as follows :

Strike out section 2.

Amend section 3 by striking out "three dollars," where it appears in the section, and insert "two dollars."

After the words "man and horse," strike out "seventy-five," and insert "fifty."

After the words "animals packed," strike out "seventy-five," and insert "twenty-five."

After the words "cattle, horses," strike out "&c."

After the words "sheep and swine, 10 cents," strike out the remainder of the section.

Amend section 4 by inserting the word "safe" between the words "the" and "transportation."

Strike out, after the word "delay," the remainder of the section.

Strike out section 5.

Insert in section 6, "That said corporators shall not obstruct any ford within the bounds herein granted."

Insert, in section 7, "That the privilege herein granted shall not interfere with any prior or vested rights."

Report received and adopted, and bill ordered for third reading.

Mr. Spratt introduced C. B. No. 42, being "An Act to amend an act to regulate proceedings in courts of this Territory, passed April 12th, 1866."

Read first and second time, and referred to Committee on Judiciary.

Council adjourned to this evening, at 7 o'clock.

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#### EVENING SESSION.

Council called to order by the President.

Roll called—absent, Messrs. Brown, Chiles, Lowry, Phelps, Tuttle, and Wilkinson.



On motion of Mr. Waterbury, Joint Memorial No. 2, "Asking appropriation from Congress," was amended by inserting "\$150,000," instead of "\$100,000," and by inserting "public buildings," instead of "capitol buildings."

Joint Memorial was considered engrossed, rules suspended, read third time, and passed by the following vote:

*Yeas*—Messrs. Galloway, Lowry, Moore, Orr, Spratt, Waterbury, Wilson, and Mr. President—8.

*Nays*—None.

Title agreed to.

Joint Memorial No. 1, "Asking Congress to increase the pay of federal officers, etc.," was read third time, rules suspended, and passed by the following vote:

*Yeas*—Messrs. Galloway, Lowry, Moore, Orr, Spratt, Waterbury, Wilson, and Mr. President—8.

*Nays*—None.

Title agreed to.

A communication from the Governor, dated Nov. 20th, 1866, on the subject of curiosities, agriculture, etc., was received.

Referred to Committee of the Whole.

Council then went into Committee of the Whole. Mr. Lowry in the chair.

Committee arose, and referred the message back to the Council, who referred it to a Select Committee of three, consisting of Messrs. Orr, Moore, and Wilson.

The Council then resolved itself into an executive session.

Council resumed business.



Mr. Chiles, chairman of Committee of the Whole, made the following report:

The Committee of the Whole, having had under consideration C. B. No. 30, a bill for "An Act to incorporate the Lemhi and Big Hole Wagon Road and Bridge Company," report said bill back, with the following amendments and alterations:

Section 2, line 5, strike out the word "across."

Strike out all of section 2 after the word "prairie," in 5th line of same section.

Strike out all of section 3.

Consolidate sections 4 and 5 in a new section, to read as follows:

"SEC. 3. That said company or corporation shall have the power, and are hereby authorized to construct and maintain a toll gate at or near the point where said road enters the Rocky mountains, at which gate they shall be authorized to collect the following rates of toll:

For each wagon or vehicle, drawn by two horses, mules or oxen,	\$1.50
For each additional pair of horses, mules or oxen,	.50
For each carriage or vehicle drawn by one horse, mule or other animal,	.50
For each horse and rider,	.50
For each animal packed,	.25
For each head of loose cattle, horses, mules or asses,	.10
For each head of sheep or hogs,	.05

"*Provided*, That no toll shall be collected until the road is completed and in good repair."

Strike out sections 7 and 8.

Insert new section, as follows:

"SEC. 5. That if said company shall fail to construct said road within one year from the passage of this act, then all the rights and franchises granted in this act to be forfeited."

Renumber the sections as may be necessary.

The Committee recommend that the bill pass with the above amendments.

Report received, and adopted.

Bill adopted as amended, ordered engrossed, and passed to third reading.

Council adjourned to 10 o'clock, Friday morning.

CHARLES S. BAGG,  
*President.*

WM. Y. LOVELL,  
*Chief Clerk.*

## TWENTY-SECOND DAY.

NOVEMBER 30, 1866.

Council called to order by the President, at 10 o'clock.

Roll called—absent, Messrs. Chiles, Phelps, Waterbury, and Wilson.

Journal read and approved.

Mr. Brown, chairman of Committee of the Whole, made the following report:

Your Committee, to whom was referred C. B. No. 25, "An Act in relation to territorial library," have had the same under consideration, and beg leave to report it back to the Council, and recommend its passage, with the following amendments:

Section 2, first line, strike out "librarian" and insert "auditor," and fill blank with the words "8th day of October."

In section 5 strike out all between the word "injure," in the first line, and "he," in second line, and insert "any book or books."

In section 6, strike out all between the word "library," in 3d line, and the word "and," in 5th line.

Strike out sections 7 and 8.

In section 9, strike out "Governor, Territorial Auditor, and Attorney General," and insert "Territorial Auditor, Treasurer, and Superintendent of Public Instruction."

In section 10, strike out "other than the officers mentioned in this act."

Report received and adopted, and amendments ordered to be engrossed.

Mr. Waterbury, chairman of Committee on Enrollment, reported C. J. R. No. 4 correctly enrolled.

A communication from the House was received, as follows:

The following bills were introduced under previous notice:

By Mr. Jordan—"A Bill for an act to establish a common school fund."

By Mr. Gallagher—"A Bill for an act authorizing B. F. Price, J. L. Kirtley and W. H. Rogers to establish and maintain a toll road from Nevada City, M. T., to Snake river."

By Mr. McCullough—"A Bill for an act to regulate by law the fees of the officers of this Territory."

By Mr. Mimms—"A Bill for an act to invest certain powers in the board of commissioners of Edgerton county, M. T."

By Mr. Mimms—H. B. No. 52, "An Act to amend an act to incorporate the Little Prickly Pear Wagon Road Company."

By Mr. McCullough—H. B. No. 53, "An Act to authorize Henry Gassett and James Sinclair to construct and maintain a ferry or bridge across the Jefferson river."

By Mr. Mimms—H. B. No. 54, "An Act for the better observance of the Lord's Day."

The following bills were passed:

C. B. No. 27, "An Act entitled an act to amend an act respecting administrators."

H. B. No. 30, "An Act to incorporate the Brown's Gulch and Silver Bow Ditch Company."

H. J. M. No. 2, "Joint Memorial to the Senate and House of Representatives of America, in Congress assembled," was passed, and title agreed to.

Mr. Lowry gave notice that he would, on to-morrow or some subsequent day, introduce "A Bill for an act authorizing A. Holmes and Luther M. Brown to establish a ferry across the Missouri river."

Mr. Galloway gave notice that he would, on to-morrow or some subsequent day, introduce "A Bill for an act relating to water companies and regulating the same."

Mr. Galloway, by consent, introduced C. B. No. 43, "An Act to repeal an act regulating the probate court of Deer Lodge county."

Read first and second time, rule suspended, read third time, and passed by the following vote:

*Yeas*—Messrs. Brown, Galloway, Lowry, Moore, Orr, Phelps, Spratt, Tuttle, Waterbury, Wilkinson, Wilson, and Mr. President—12.

Mr. Orr introduced, under previous notice, C. B. No. 44, "An Act in relation to Mines and Miners."

Read first and second time, and referred to Committee on Mines and Minerals.

Mr. Lowry introduced, by previous notice, C. B. No. 45, "An Act to grant to R. Hereford and others the right to establish a toll road in Lost-Horse Gulch."

Read first and second time, and referred to Committee on Incorporations.

H. J. M. No. 2, "Amending that portion of the Organic Act relative to the judiciary," was read first and second time, and referred to the Judiciary Committee.

On motion of Mr. Spratt, the Memorial was ordered to be printed.

H. B. No. 30, "To incorporate Brown's Gulch and Silver Bow Water Ditch Company."

Read first and second time, and referred to Committee on Incorporations.

H. B. No. 16, "An Act to authorize Charles Francisco and D. Abbott to construct a ferry on Sun river."

Amendments adopted, ordered engrossed, and passed to third reading.

The Territorial Auditor's communication was taken up and referred to Special Committee of two, consisting of Messrs. Orr and Moore.

The Council then took a recess until 2 o'clock, P. M.

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#### AFTERNOON SESSION.

Council called to order by the President.

Roll called—absent, Messrs. Chiles, Spratt, and Wilkinson.

Mr. Phelps, chairman of Committee on Engrossment, reported that the Committee had examined C. B. No. 1 and find the same correctly engrossed.

A communication from the Governor was received, and read, and laid on the table.

C. B. No. 1, "An Act to regulate and license foreign miners," was taken up and read third time.

Mr. Waterbury moved to indefinitely postpone the same. Lost.

On its final passage the bill was lost by the following vote:

*Yeas*—Messrs. Galloway, Lowry, Moore, Phelps, and Tuttle—5.

*Nays*—Messrs. Brown, Orr, Waterbury, Wilkinson, Wilson, and Mr. President—6.

Mr. Phelps, chairman, made the following report:

Your Committee on Engrossment report the amendments of Committee of the Whole to House Bill No. 16, as correctly engrossed.

H. B. No. 16, "An Act to authorize Charles Francisco and D. Abbott to construct a ferry on Sun river," was then taken up with the amendments, read third time, and passed by the following vote:

*Yeas*—Messrs. Brown, Galloway, Lowry, Moore, Orr, Phelps, Tuttle, Wilkinson, Wilson, and Mr. President—10.

Mr. Brown, by consent, introduced C. B. No. 46, "A Bill to authorize A. A. Brown, John Page, and A. G. Lee to construct and maintain a bed rock flume in Summit district, in Ophir Gulch, in Deer Lodge county."

Read first and second time, and referred to Committee of the Whole.

Mr. Phelps, chairman of Committee on Judiciary, made the following report:

Your Committee to whom was referred H. B. No. 29, have had the same under consideration and beg leave to report a substitute for said bill. All of which is respectfully submitted.

Report received, and adopted.

The substitute was read first and second time.

Referred to Committee of the Whole, and ordered to be printed.

Mr. Brown, chairman of Committee on Incorporations, reported as follows:

Your Committee, to whom was referred C. B. No. 40, "To authorize D. A. G. Floweree and others to construct a bed rock flume in Dry Gulch, Edgerton county," have examined the same and beg leave to report it back, recommending its passage.

Report received, and adopted.



Rules suspended, bill read third time, and passed by the following vote :

*Yeas*—Messrs. Brown, Galloway, Lowry, Moore, Phelps, Tuttle, Waterbury, Wilkinson, Wilson, and Mr. President—10.

*Nay*—Mr. Orr.

Title agreed to.

Mr. Brown, chairman of Committee on Incorporations, made the following report :

Your Committee to whom was referred C. B. No. 45, "An Act granting to R. Hereford and others, the right to establish a toll road on Lost Horse Gulch," have examined the same and beg leave to report the same back to the Council, recommending it be referred to Committee of the Whole for the purpose of filling up the blanks of the same.

Report received, and adopted.

Mr. Moore, by consent, introduced C. B. No. 47, "To divorce Thomas Caldwell and Miranda Caldwell."

Read, and referred to a Select Committee consisting of Messrs. Phelps, Waterbury, and Moore.

The Council then resolved itself into Committee of the Whole on C. B. No. 45. Mr. Waterbury in the chair.

Committee arose, and the Council resumed its session.

Mr. Phelps, chairman of Committee on Engrossment, made the following report :

Your Committee on Engrossment have examined the engrossed copy of C. B. No. 30, and report the same as correctly engrossed.

C. B. No. 30, "An Act to incorporate the Lemhi and Big Hole Wagon Road and Bridge Company," was taken up, rules suspended, bill read third time, and passed by the following vote :

*Yeas*—Messrs. Brown, Galloway, Lowry, Moore, Orr, Phelps, Tuttle, Waterbury, Wilkinson, Wilson, and Mr. President—11.

*Nays*—None.

On motion of Mr. Phelps, the title was changed so as to read, "An Act to incorporate the Fort Lemhi Wagon Road Company."

Council adjourned until 10 o'clock, to-morrow morning.

CHAS. S. BAGG,

*President.*

WM. Y. LOVELL,

*Chief Clerk.*

## TWENTY-THIRD DAY.

DECEMBER 1, 1866.

Council called to order by the President, at 10 o'clock, A. M.

Roll called—absentees, Messrs. Chiles, Moore, Orr, Phelps, and Wilson.

Journal read, and approved.

A message from the House was received.

Petition No. 2, "A petition from the citizens of Gallatin county praying for the establishment of post routes and post offices in said county," was read.

Petition was referred to Committee on Federal Relations.

Also, petition No. 3, "From the citizens of Gallatin county in relation to changing the county seat of said county," was read,—reading of names dispensed with, and the petition referred to Committee on Towns and Counties.

Mr. Galloway, chairman of Committee on Elections, made the following report:

Your Committee, to whom was referred "A Bill to repeal section 32 of an act entitled an act in relation to elections," report the same back to the Council and recommend its passage.

Mr. Phelps, chairman of Committee on Engrossment, made the following report:

Your Committee on Engrossment have examined the engrossed copy of Council Bills Nos. 7 and 25, and find them correctly engrossed.

Mr. Waterbury, chairman of Committee on Enrollment, would report C. B. No. 28, "An Act requiring criminals to perform labor," C. B. No. 9, "An Act in relation to contracts, bills of exchange, promissory notes and accounts," correctly enrolled, and presented to the Governor for his signature at 20 minutes to 11 A. M., December 1, 1866.

Mr. Spratt, chairman of Committee on Judiciary, made the following report:

Your Committee, to whom H. J. M. No. 2 was referred, having had the same under consideration, beg leave to report it back to the Council, with the recommendation that it do pass.

Report received, and adopted.

Mr. Waterbury, chairman of Select Committee, made the following report:

Your Committee, to whom was referred C. B. No. 47, "An Act to dissolve the bonds of matrimony between Thomas Caldwell and Miranda Caldwell," would most respectfully submit the following report:

Your Committee are of the opinion that this body are exercising unquestionable authority in dissolving and rendering void contracts of this nature which have been violated; but sincerely question the propriety of acting in such premises except in extreme cases.

Precedents of this character are becoming less frequent, and we should all rejoice and hail the day with satisfaction when our courts will be open and free to all classes and conditions of people. Many cases of actual hardship might be remedied in a court of law which cannot come under our jurisdiction. After a careful examination of the case had under consideration, we are led to believe this may be classed as one of them.

It seems, the husband, a healthy, able man, has entirely deserted his young wife and two children, refusing them countenance or support, thus throwing them helpless upon the charity of a selfish world.

We believe the courts of our country should adjudicate in

this instance, and at least compel a weekly or monthly allowance from the husband, for the care and support of his own offspring.

We find, however, in the present instance, that the applicant is poor, and scarcely able, with the most untiring exertion to sustain herself and children, and quite unable to defray the expense of a suit at law before our courts.

We, therefore, in order to insure present relief, recommend that the applicant be granted the relief asked for in the bill; and that the bill do pass.

Report received, and adopted.

Mr. Lowry, chairman, made the following report:

Your Joint Committee, appointed to revise the license law of this Territory, have directed me to report to the Council, they have had that subject under consideration, and have introduced a bill relating thereto in the House of Representatives.

Mr. Waterbury, chairman of Committee of the Whole, made the following report:

The Committee to whom was referred C. B. No. 45, "An Act granting to R. Hereford and others, the right to construct and maintain a toll road in Lost Horse Gulch," recommend the adoption of the following amendments:

Amend section 1 by adding the following: "And failing to complete said road in one year, the franchise herein granted shall be null and void."

Amend section two, line two, by striking out "one or more toll gates," and insert "one toll gate within one-half mile of the entrance of Lost Horse Gulch."

Strike out all after the word "collect," in third line, section two, and insert, "The following rates of toll, to wit."

Amend in ninth line, \$2.00.

Fill blank in tenth line with figures 50 cents.

Fill blank in eleventh line with figures 25.

Fill blank in twelfth line with figures 25.

In thirteenth line with figures 10.

In fourteenth line with figure 5.

Strike out word "each" in fifteenth line and insert "the."

Amend section 3 by striking from third and fourth line, the words "Three years from."

With the above amendments, your chairman of the Committee of the Whole has been instructed by that body to recommend the passage of the bill.

Report received, and adopted, and ordered engrossed.

Mr. Spratt, by consent, gave notice, that on Monday next or some subsequent day, he will introduce a bill for an act to incorporate the Passamari Canal Company."

Mr. Lowry, by previous notice, introduced C. B. No. 48, "Authorizing F. A. Holmes and others, to establish a ferry across the Missouri river."

Read first and second time, and referred to Committee on Incorporations.

A message from the House was read as follows:

Mr. Van Hagen gave notice that he would introduce "An Act to confer certain powers on the sheriff of Edgerton county."

The following bills were introduced, previous notice being given:

By Mr. Gallagher—House Bill No. 55, "An Act to authorize B. F. Price and others to construct a Wagon Road from Nevada City to Snake river."

By Mr. Rogers—H. B. No. 56, "An Act to provide for the payment of jurors in the courts of Montana Territory."

By Mr. McMurtry—H. B. No. 57, "An Act to incorporate the Montana Stage Company."

Mr. Wylie reported from Joint Committee, H. B. No. 58, "An Act concerning licenses."

The House refused to recede from their amendments to C. B. No. 15, and ask that a Committee of Conference be appointed by the Council, consisting of two, to confer with a like Committee from the House.

Messrs. Smith and Rogers were appointed on part of the House.

C. B. No. 11, "An Act concerning Incorporations," was passed, with the accompanying amendments:

Amend section 1 by striking out all after line eleven of said section. Concurred in.

Amend section 5, line five, by striking out the words, "a majority of them." Same section, line six, after the word "and," insert the words "a majority." Concurred in.

Amend section 25 by substituting the following:

"Sec. 25. All corporations already formed, or which may hereafter be formed under this act for mining purposes, shall be governed by the mining laws of the district where the mines are located.

*"Provided,* That the amount of money so expended in incorporating said company and the procuring of the necessary books for said corporation, shall be deemed in law as so much money expended in working said claim." Not concurred in.

"Sec. 26. When any mining incorporation holding or working any mine or mines in this Territory shall disincorporate under the provisions of this act, the board of trustees of said corporation shall convey by deed to the stockholders of said company all mines and other property of said corporation, in proportion to the amount of stock each stockholder shall hold in the mine or mines and other property owned by said corporation; which deed shall be recorded in the office of the county recorder of the county in which the mine is located." Concurred in.

"Sec. 27. This act shall take effect from and after its passage." Concurred in.

Also, H. B. No. 43, "An Act incorporating the Virginia City and Nevada Ditch and Flume Company," was passed Nov. 30, 1866.

A. H. BARRETT,  
*Chief Clerk House of Representatives.*



H. B. No. 43, "An Act to incorporate the Virginia City and Nevada Ditch and Flume Company," was read first and second time, and referred to Committee on Incorporations.

The Council then resolved itself into Committee of the Whole on C. B. No. 46 and H. B. No. 29.

Committee arose, and Council resumed business.

Mr. Phelps, chairman of Committee on Engrossment, made the following report:

Your Committee on Engrossment have examined the engrossed copy of C. B. No. 36 and find the same correctly engrossed.

Mr. Orr, chairman of the Committee of the Whole, made the following report:

Your Committee to whom was referred C. B. No. 46, "An Act to authorize A. A. Brown, John Taze and A. G. Lee & Co. to construct and maintain a bed rock flume in Summit district, in Ophir Gulch, in Deer Lodge county," beg leave to report that the Committee instructed the chairman to report the bill back to the Council and recommend that it pass.

Report received, and adopted.

The bill was then taken up, rules suspended, and passed by the following vote:

*Yeas*—Messrs. Brown, Galloway, Lowry, Phelps, Spratt, Tuttle, Waterbury, and Mr. President—8.

*Nay*—Mr. Orr.

The title was agreed to.

C. B. No. 47, "An Act to dissolve the bonds of matrimony existing between Thomas Caldwell and Miranda Caldwell," was passed by the following vote:

*Yeas*—Messrs. Brown, Lowry, Phelps, Spratt, Waterbury, Wilkinson, and Mr. President—7.

*Nays*—Messrs. Galloway, Orr, and Tuttle—3.

C. B. No. 36 was taken up and read for information, being "An Act to authorize Robert Tingley, John Kennedy and their associates to construct a wagon road around the falls of the Missouri."

On motion of Mr. Phelps, amend section 2 by striking out in the second line "three" and insert "one."

On motion of Mr. Orr, section 5 was amended by inserting in the ninth and tenth lines, "except when caused by snow or ice."

Mr. Orr moved to strike out section 6. Carried.

Mr. Lowry moved to amend section 5 by striking out the words, "the same being known to Robert Tingley and his associates." Carried.

Mr. Waterbury moved to insert the names of "John Kennedy and Brother" in section 1, and also in the title of the bill.

Mr. Phelps moved to strike out of section 8 the words, "approved by the Governor."

On motion, the bill was ordered re-engrossed.

C. B. No. 25, "An Act in relation to the territorial library," was taken up and read for information, and the same having been found to be incorrectly engrossed, the same was referred to the Committee of the Whole.

Mr. Orr, chairman of the Committee of the Whole, made the following report:

Your Committee of the Whole, to whom was referred H. B. No. 29, "An Act to provide for the payment of costs by counties attached to others for judicial purposes, etc.," having had the same under consideration, instruct the chairman to report the same back to the Council and recommend that it be laid on the table,

Council took a recess until 2 o'clock, P. M.

## AFTERNOON SESSION.

Mr. Brown, chairman of Committee on Incorporations, reported on H. B. No. 30, being "An Act to incorporate the Brown Gulch and Silver Bow Water Ditch Company," having had the same under consideration, beg leave to report the same back to the Council, and recommend its passage, with the following amendments :

In section 1, line 4, strike out the words "make and declare," and insert "made and declared."

In section 3, last line, strike out the words "reasonable prices," and insert the following prices : "1st head, six inches pressure, 50 cents; 2d head, six inches pressure, 37 cents; 3d head, six inches pressure, 20 cents."

Make section 5 section 6, and insert, in place of section 5, the following :

"That nothing in this act shall be so construed as in any way to interfere with prior vested rights."

Report received and adopted, and amendments ordered engrossed.

H. J. M. No. 2, being a "Joint Memorial, praying amendments to section 9 of the Organic Act," was read a third time, and, on motion of Mr. Orr, was laid on the table.

Mr. Waterbury, from the Committee of Conference on C. B. No. 15, being "An Act for increased compensation to the officers, etc., of this Territory," made the following majority report :

Your Committee of Conference, appointed to confer with a like Committee on the part of the House, in relation to a disagreement on C. B. No. 15, "A Bill for an act entitled an act providing for increased compensation of officers," have conferred, and, taking action, would report that section 1 of said bill be stricken out of said bill. That section 2 be substituted for section 1 and numbered *one* of said bill.

Amend section 1 after the words "a per diem compensation," as follows, so as to read: "To each member of the Legislative Assembly, during his attendance at this session, the sum of ten dollars; to each of the Chief Clerks, the sum of ten dollars; to each of the Assistant Engrossing and Enrolling Clerks, the sum of eight dollars; to each Sergeant-at-Arms, the sum of eight dollars; to each Doorkeeper the sum of eight dollars; to each Fireman, the sum of fourteen dollars; to each Page, the sum of six dollars.

Strike out section 3.

Section 4 renumber, and make section 2 of said bill.

Amend section 2, in second line, after the word "section," by striking out the word "two," and insert "one."

Make section 5 section 3.

All of which is agreed to.

Report received, and adopted.

Mr. Waterbury also presented the minority report on said C. B. No. 15:

Being one of the Committee of Conference to whom was referred C. B. No. 15, and the amendments as proposed by the House, I beg leave to submit the following report:

Doubting both the propriety and legality of the provisions of C. B. No. 15, I offer this, my humble remonstrance, not only to the bill itself, but to every amendment that has been or may be offered thereto. I consider it *in toto* an unwise act of legislation, that must reflect discreditably upon this Legislative Assembly, if it ever becomes a law.

Most respectfully,

(Signed)

J. H. ROGERS.

On motion of Mr. Waterbury, the foregoing report was laid on the table.

C. B. No. 39, being an act to repeal section 32 of an act relative to elections," was, on motion, laid on the table.

The Council resolved itself into a Committee of the Whole, on C. B. No. 25. Mr. Lowry in the chair.

Committee arose, and the Council resumed its session.

Mr. Orr offered the following resolution :

*Resolved*, By the Council, that the Secretary of the Territory be instructed to see that there are no more holes cut into this Chamber.

Motion lost.

Mr. Phelps reported C. B. No. 36 correctly engrossed.

Mr. Brown made the following report :

Your Committee, to whom was referred C. B. No. 48, " An Act to authorize F. A. Holmes and Luther M. Brown to construct a ferry across the Missouri river, between the counties of Edgerton and Meagher," have had the same under consideration, and ask leave to report the same back to the Council, recommending that the same may be referred to Committee of the Whole for their action thereon.

Report received, and adopted.

Council adjourned to Monday morning, at 10 o'clock.

CHAS. S. BAGG,  
*President.*

WM. Y. LOVELL,  
*Chief Clerk.*

## TWENTY-FOURTH DAY.

DECEMBER 3, 1866.

Council called to order by the President at 10 o'clock, A. M.

Roll called—quorum present.

Journal of Saturday read and approved.

Mr. Phelps, chairman of Committee on Engrossment, reported the amendments to H. B. No. 30, being "An Act to incorporate the Brown's Gulch and Silver Bow Water Ditch Company;"

Also, C. B. No. 48, being "A Bill for an act entitled an act granting to R. Hereford, M. P. Lowry and Wm. Carter the right to establish a toll road in Lost Horse Gulch,"

As correctly engrossed.

Mr. Brown reported, as chairman of Committee on Incorporations, on C. B. No. 37, "A Bill authorizing C. Rumley and others to construct a wagon road from Helena to New York Gulch," recommending it be referred to the Committee of the Whole.

Mr. Lowry, chairman of Committee of the Whole, reported on C. B. No. 25, "An Act in relation to territorial library."

Report the same back to the Council, recommending it do not pass.

Mr. Tuttle gave notice of a bill for "An Act to incorporate the Madison Valley Canal Company."

A message from the Governor, approving of Council Bills Nos. 28, 33 and 9, was read.



Mr. Lowry, by consent, introduced C. B. No. 49, "An Act authorizing John H. Ming and others to construct a toll road in Meagher and Choteau counties."

Referred to Committee on Incorporations.

Mr. Orr, under previous notice, introduced C. B. No. 51, "An Act in relation to estrays," which was referred to Committee on Judiciary.

Message from the House was received, as follows :

The following notices for the introduction of bills have been given :

By Mr. Esler,—“An Act granting the people of Beaver Head county the right to locate the county seat.”

By Mr. Smith,—“An Act for the relief of John W. Kerr.”

By Mr. Blakely,—“An Act to change the time of holding elections.”

The following bills have been introduced :

By Mr. McManus,—H. B. No. 59, “An Act to authorize John Lenan, his heirs and assigns, to establish a ferry or bridge across the Hell Gate river.”

By Mr. Van Hagan,—H. B. No. 60, “An Act to confer certain powers on the sheriff of Edgerton county.”

H. B. No. 19, “An Act to amend an act concerning limitations,” was passed.

H. B. No. 54, “An Act for the better observance of the Lord's Day.”

C. B. No. 18, “An Act to incorporate Clark's Fork and Fort Benton Wagon Road Company,” was passed, with amendments, as follows :

Amend section 5, line 15, by striking out “25 cents,” and insert “15 cents.”

Add section 7 : “This bill may be modified or amended at any future session of the Legislature.”

Change section 7 to section 8.



C. B. No. 19, "An Act to authorize George Rolff and John A. Creighton to establish and maintain a toll road or bridge in Beaver Head Company."

Also, that the House has concurred in the amendments as reported by a majority of the Conference Committee on C. B. No. 15.

A. H. BARRETT,  
*Chief Clerk House of Representatives.*

H. B. No. 19, "An Act concerning limitations," was read first and second time, and referred to Committee on Judiciary.

H. B. No. 54, "An Act for the better observance of the Lord's Day," was read first and second time, and referred to Special Committee, consisting of Messrs. Spratt, Waterbury, and Brown.

H. B. No. 30, "An Act to incorporate the Brown's Gulch and Silver Bow Water Ditch Company," was read third time, and passed by the following vote:

*Yeas*—Messrs. Brown, Lowry, Orr, Phelps, Spratt, Tuttle, Wilkinson, and Mr. President—8.

*Nay*—Mr. Galloway.

The title was agreed to.

C. B. No. 45, "An Act granting R. Hereford, M. P. Lowry and Wm. Carter the right to establish a toll road in Lost Horse Gulch."

Bill read third time, and passed by the following vote:

*Yeas*—Messrs. Brown, Lowry, Orr, Phelps, Spratt, Tuttle, Wilkinson, and Mr. President—8.

*Nay*—Mr. Galloway.

The Council, on motion, went into Committee of the Whole on C. B. No. 48. Mr. Phelps in the chair.

Council resumed its session.

On motion of Mr. Waterbury, the amendments of the House to C. B. No. 18, "An Act to incorporate Clark's Fork and Fort Benton Wagon Road Company," were concurred in.

Mr. Spratt, by consent, introduced C. B. No. 52, being "An Act to incorporate the Passamari Canal Company."

Read first and second time, and referred to Committee on Incorporations.

On motion, the Council took a recess until 2 o'clock, P. M.

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#### AFTERNOON SESSION.

Council called to order by the President, at 2 o'clock.

Roll called—Quorum present.

The following message was received:

MR. PRESIDENT—I am directed by the Governor to inform the Council that he did, on the 1st of December, approve and sign C. B. No. 28, "An Act requiring criminals to perform labor."

Also, C. B. No. 33, "An Act to incorporate the Blackfoot City Water Company."

Also, that he has this day approved and signed C. B. No. 9, "An Act in relation to contracts, bills of exchange, promissory notes and accounts."

Mr. Waterbury, chairman of Committee on Enrollment, reported that Council Bills Nos. 27 and 15 were correctly enrolled, and presented to the Governor for his signature this the 3rd day of December, 1866, at twenty minutes to 11 o'clock, A. M.

Also, C. B. No. 19 correctly enrolled, and delivered to the Governor at five minutes past 4 o'clock, P. M., for his signature.

Mr. Phelps, chairman of Committee on Engrossment, reported the amendments to H. B. No. 30 correctly engrossed.

Mr. Phelps called up C. B. No. 39, "A Bill for an act to amend an act regulating the holding of elections in Montana Territory."

Rules suspended, bill read a third time, and passed by the following vote :

*Yeas*—Messrs. Brown, Galloway, Lowry, Orr, Phelps, Tuttle, Waterbury, Wilkinson, Wilson, and Mr. President—10.

*Nays*—None.

Mr. Spratt, by consent, introduced C. B. No. 53, "An Act to divorce Martha A. Williams and Allen Williams from the bonds of matrimony."

Referred to Special Committee, consisting of Messrs. Wilkinson, Brown and Tuttle.

Mr. Wilkinson presented C. B. No. 22, which had been erroneously endorsed.

Bill ordered to a third reading.

Mr. Wilson called up H. J. M. No. 2, which was read for information.

On motion of Mr. Galloway, the first section was stricken out.

Mr. Bagg moved to strike out the title of the bill, which was carried.

Mr. Bagg moved to lay said motion on the table, which was carried.

On motion, C. B. No. 25 was indefinitely postponed, and the bill laid on the table.

Mr. Waterbury offered the following resolution :

*Be it resolved*, By the Legislative Council of the Territory of Montana, That, whereas it is rumored that the Governor has delivered over to the House of Representatives C. J. M. No. 4, therefore, be it—

*Resolved*, That His Excellency the Governor be, and is hereby requested to furnish information upon this subject to the Council at his earliest convenience.

The Council went into Committee of the Whole upon C. B. No. 22. Mr. Lowry in the chair.

Committee arose, and Council resumed business.

Mr. Lowry, chairman of the Committee of the Whole, reported progress on C. B. No. 22, and asked leave to sit again.

On motion of Mr. Galloway, the Council adjourned to 9 o'clock to-morrow morning.

CHARLES S. BAGG,  
*President.*

WM. Y. LOVELL,  
*Chief Clerk.*

## TWENTY-FIFTH DAY.

DECEMBER 4, 1866.

Council called to order by the President, at 9 o'clock, A. M.

Roll called—Quorum present.

Journal read, corrected, and approved.

Mr. Phelps, chairman of the Committee on Engrossment, reported C. B. No. 48 correctly engrossed.

Mr. Brown reported on C. B. No. 50, "An Act to incorporate the Deep Creek Canal Company," recommending the same be referred to the Committee of the Whole.

Bill so referred.

C. B. No. 36, "A Bill for an act to authorize Robert Tingley and John Kennedy and their associates, to construct a wagon road around the falls of the Missouri river."

Bill read third time, and passed by the following vote:

*Yeas*—Messrs. Brown, Galloway, Lowry, Moore, Orr, Phelps, Tuttle, Waterbury, Wilkinson, Wilson, and Mr. President—11

*Nays*—None.

C. B. No. 48, "An Act to authorize F. A. Holmes and Luther M. Brown, their associates, etc., to establish a ferry across the Missouri river between the counties of Meagher and Edgerton."

Read third time, and passed by the following vote:

*Yeas*—Messrs. Brown, Galloway, Lowry, Moore, Orr, Phelps, Tuttle, Waterbury, Wilkinson, Wilson, and Mr. President—11.

*Nays*—None.

C. B. No. 7, being "An Act concerning fences," was read third time, and passed by the following vote:

*Yeas*—Messrs. Brown, Galloway, Lowry, Moore, Orr, Phelps, Tuttle, Waterbury, Wilkinson, Wilson, and Mr. President—11.

*Nays*—None.

The Council resolved itself into a Committee of the Whole on Council Bills Nos. 37 and 50. Mr. Phelps in the chair.

The Committee arose, and Council resumed its session.

The Council then went into Committee of the Whole on C. B. No. 22. Mr. Lowry in the chair.

A message from the House was received as follows:

Mr. Mimms gave notice of the introduction of a Joint Resolution in relation to the North Pacific Railroad.

Mr. McMurtry, by consent, introduced H. B. No. 61, "An Act to incorporate the Silver Bow Ditch Company."

H. J. M. No. 2 was passed by the House.

H. J. M. No. 3 was passed by the House.

C. B. No. 43, "An Act to repeal an act to regulate the probate court in Deer Lodge county," was passed by the House.

H. B. No. 31, "An Act to incorporate the Fairbanks Town Company," was passed by the House.

H. B. No. 36, "An Act to incorporate the Madison Bridge Company," passed the House.

H. B. No. 35, "An Act to secure persons and animals and wagons from damage arising from mining and other excavations," passed the House.

H. B. No. 34, "An Act to authorize J. C. Kerby and W. H. Todd to construct and maintain a water ditch from Monmouth Gulch to Red Mountain City, in Deer Lodge county," passed the House.

H. B. No. 56, "An Act providing for the payment of jurors in the courts of Montana Territory," passed the House.

Also, that the House refused to concur with the Council in their amendments to H. B. No. 16, and ask the Council to recede.

#### EVENING SESSION.

The House passed the following bills :

H B. No. 48, "An Act concerning roads, highways, etc."

C. B. No. 6, substitute passed and herewith presented.

C. B. No. 46, "An Act to authorize A. A. Brown and others to construct a bed rock flume," etc.

H. B. No. 13, "An Act to authorize E. N. Park to maintain a ferry or bridge across Bitter Root river."

Read third time and lost.

C. B. No. 34, "An Act divorcing Frances McCormick from Isom McCormick," was lost on its third reading.

C. B. No. 29, "An Act to authorize Owen Gillmore and M. P. Lowry to establish a ferry and toll bridge across Sun river," passed the House.

A. H. BARRETT,

*Chief Clerk House of Representatives.*

The Committee arose, and the Council resumed its session.

Mr. Phelps, chairman of the Committee of the Whole on C. B. No. 37, "A Bill authorizing C. Rumley and others to construct a wagon road from Helena to New York Gulch, etc." report that the Committee have had the same under consideration, and report said bill back to the Council, recommending it be referred to a Select Committee of three.

Received and adopted, and Messrs. Wilson, Orr, and Tuttle appointed said committee.

Mr. Galloway, chairman of Committee on Mines and Minerals, reported on C. B. No. 44, recommending it be referred to the Committee of the Whole.

Report received, and adopted.



Mr. Spratt, chairman on Judiciary, reported on C. B. No. 51, recommending the same to the Committee of the Whole.

Mr. Waterbury moved that the Judiciary Committee be requested to report on C. B. No. 14 as soon as possible. Motion carried.

Mr. Brown, chairman of Committee on Incorporations, reported C. B. No. 49, with amendments, recommending that the same pass.

Report received, and adopted, and bill ordered engrossed for the third reading.

Mr. Phelps, chairman of the Committee of the Whole on C. B. No. 37, reported the same back, with a recommendation that it do not pass.

Also, on C. B. No. 50, and recommend that it be referred to a Select Committee of three, consisting of Messrs. Wilson, Orr, and Tuttle.

Report received, and adopted.

Mr. Phelps, by consent, introduced C. B. No. 54, "A Bill to incorporate the Grasshopper Creek Ditch and Mining Company."

Read first and second time, and referred to Committee on Incorporations.

C. B. No. 6 was reported back from the House, recommending a substitute.

Substitute read first and second time, and referred to the Committee of the Whole.

H. B. No. 43 was reported back by Mr. Brown, chairman of Committee on Incorporations, with amendments.

Report received, and adopted, and amendments ordered engrossed for a third reading.

C. B. No. 52 was reported back by Mr. Brown, with amendments.

Report received, and adopted, and referred to Committee of the Whole.

Mr. Spratt, of Special Committee on H. B. No. 54, reported the bill back, recommending that the same be referred to the Committee of the Whole.

Report received, and adopted.

Mr. Spratt, chairman of Judiciary Committee, reported on C. B. No. 32, recommending that the same be referred to Committee of the Whole.

Report received, and adopted.

Mr. Brown, chairman of Committee on Incorporations, reported C. B. No. 54, recommending its passage.

Report received, and adopted.

Mr. Spratt, chairman of Committee on Judiciary, reported on C. B. No. 51, recommending that the same be recommitted to the Committee of the Whole, and the same be made the special order for 2 o'clock, P. M.

Report received, and adopted.

Council Bill No. 37 was reported back, recommending it do not pass.

On motion, the bill was indefinitely postponed.

C. B. No. 50 reported back, recommending it be referred to Committee of three.

H. B. No. 34, "An Act authorizing J. L. Kerby and Wm. H. Todd, their heirs, etc., to construct and maintain a water ditch from Monmouth Gulch to Red Mountain City, in Deer Lodge county."

Read first and second time, and referred to Committee on Incorporations.

Council Memorial No. 3, "A memorial to open the National

Road across the Bitter Root mountain," was referred back from the House with amendments, which were read.

Council refused to concur, and requested the House to recede from the same.

H. B. No. 31, "An Act to incorporate the Fairbanks Town Company," was read first and second time, and referred to Committee on Incorporations.

H. B. No. 36, "An Act to incorporate the Madison Bridge Company," was read first and second time, and referred to Committee on Incorporations.

H. B. No. 48, "An Act concerning roads and highways, trails, and public thoroughfares," was read first and second time, and referred to a Special Committee, consisting of Messrs. Lowry, Galloway, and Wilson.

H. B. No. 35, "An Act to secure persons, animals, and wagons from danger arising from mining and other excavations."

Read first and second time, and referred to Committee on Judiciary.

On motion, the Council took a recess until 2 o'clock, P. M.

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#### AFTERNOON SESSION.

Council called to order by the President.

Roll called—Quorum present.

Mr. Waterbury, chairman of the Committee on Enrollment, made the following report:

Your Committee would respectfully report C. B. No. 10, and C. B. No. 19, correctly enrolled, and both presented to the Governor at 10 minutes to 2 o'clock, P. M., Dec. 4, 1866.

Mr. Phelps, chairman of Committee on Engrossment, reported as follows:

Your Committee on Engrossment have examined the engrossed copy of C. B. No. 49, "An Act authorizing J. H. Ming and others to construct a road in Edgerton and Meagher counties," and report the same as correctly engrossed.

The bill was then taken up and ordered to be re-engrossed for third reading.

Mr. Phelps, chairman of Committee on Engrossment, reported as follows:

Your Committee beg leave to report C. B. No. 23, "An Act to incorporate the Beaver Head Gold and Silver Mining and Manufacturing Company," as correctly engrossed.

The bill was then taken up, rules suspended, and passed by the following vote:

*Yeas*—Messrs. Brown, Galloway, Lowry, Moore, Phelps, Spratt, Tuttle, Waterbury, Wilkinson, Wilson, and Mr. President—11.

*Nay*—Mr. Orr.

A message from the Governor was received, informing the Council that he did, on the 3rd day of Dec., 1866, approve and sign C. B. No. 19, being "An Act to authorize George Rolff and John A. Creighton to establish and maintain a toll road and bridge in Beaver Head county."

Also, C. B. No. 27, being "An Act to amend an act respecting executors and administrators."

C. B. No. 54, "An Act to incorporate the Grasshopper Creek Ditch and Mining Company," was taken up, rules suspended, bill read third time, and passed by the following vote:

*Yeas*—Messrs. Brown, Galloway, Lowry, Orr, Moore, Phelps, Spratt, Tuttle, Waterbury, Wilkinson, and Mr. President—11.

The title was agreed to.

Mr. Phelps, chairman of Committee on Engrossment, reported C. B. No. 49, "An Act to authorize J. H. Ming and others to construct a toll road," etc., as correctly engrossed.

On motion, by consent, the bill was taken up, amended, and ordered to be re-engrossed for a third reading.

H. B. No. 56, "An Act for the payment of jurors."

Read first and second time, and referred to Committee of the Whole.

On motion, the Council adjourned to 9 o'clock A. M., tomorrow.

CHARLES S. BAGG,  
*President.*

WM. Y. LOVELL,  
*Chief Clerk.*

## TWENTY-SIXTH DAY.

DECEMBER 5, 1866.

Council called to order by the President, at 9 o'clock, A. M.

Roll called—a quorum not being present; after a few moments Mr. Moore entered, making a quorum.

On motion of Mr. Waterbury, the Council adjourned to 10 o'clock.

The President announced the Council adjourned to 10 o'clock, to-morrow morning, Dec. 6, 1866.

CHARLES S. BAGG,  
*President.*

WM. Y. LOVELL,  
*Chief Clerk.*

## TWENTY-SEVENTH DAY.

DECEMBER 6, 1866.

Council called to order by the President.

Roll called—Quorum present.

A message from the Governor was received and read.

I am directed by the Governor to inform the Council that he has approved and signed C. B. No. 18, entitled "An Act to incorporate the Clark's Fork and Fort Benton Wagon Road Company."

Also, that he has approved and signed C. B. No. 43, entitled "An Act to repeal an act entitled an act regulating the probate court of Deer Lodge county."

The Journal of the 4th and 5th inst. was read, and approved.

Mr. Spratt, chairman of the Judiciary Committee, to whom was referred C. B. No. 16, recommend the adoption of a substitute, being "A Bill for an act defining judicial districts, assigning the judges, fixing the time and places of holding the supreme and district courts, and for other purposes."

Substitute read, rules suspended, bill read by its title, and passed to its second reading.

Referred to the Committee on Judiciary.

A communication from the Governor was read.

Referred to a Select Committee, consisting of Messrs. Waterbury, Phelps, and Brown.



Mr. Wilkinson, of the Committee on Judiciary, to whom was referred C. B. No. 14, report that a bill has passed the House embracing the same subject, and recommend that both bills be considered in Committee of the Whole.

Report received, and adopted.

Mr. Wilkinson, of the Committee on Judiciary, to whom was referred C. B. No. 42, "An Act to regulate proceedings in civil cases in courts of this Territory," report the same back to the Council, recommending that it pass.

Report received, and adopted.

Mr. Brown, chairman of the Committee on Incorporations, to whom was referred H. B. No. 36, "An Act to incorporate the Madison Bridge Company," report the same back to the Council, and recommend the bill pass, with the following amendments:

Strike out in section 3, eighth line, the word "exclusive," and insert, at the end of section 3, the words: "Provided that said corporation, by the powers and privileges herein granted, shall not interfere with any prior rights vested, or vested rights granted."

"SEC. 8. That in case the said corporators mentioned in this act do not complete the said bridge mentioned in section 3 of this act, within nine months from the passage of the act, the rights herein granted shall become null and void."

Change section 8 to section 9.

Report received, and adopted.

Mr. Brown, chairman of Committee on Incorporations, to whom was referred H. B. No. 31, "An Act to incorporate the Fairbanks Town Company," report having examined the same and report it back to the Council, recommending it be referred to the Committee of the Whole.

Report received, and adopted.

Mr. Phelps, chairman of Committee on Engrossment, reported C. B. No. 49, "An Act authorizing John A. Ming and others to

construct a toll road in Edgerton and Choteau counties," correctly engrossed.

Mr. Lowry gave notice that, on to-morrow or a future day, he would introduce "A Bill for an act authorizing the people of Gallatin county to establish the county seat of Gallatin county."

Mr. Wilkinson introduced J. M. No. 4, "Asking an appropriation to the Northern Pacific Railroad."

Read first and second time, and referred to Committee on Federal Relations.

Mr. Tuttle introduced C. B. No. 55, "Authorizing J. P. Henderson and others to construct a water ditch, etc."

Read first and second time, and referred to Committee on Incorporations.

Mr. Orr, by consent, introduced C. B. No. 56, "An Act in relation to running horses in cities."

Read first and second time, and referred to Committee on Towns and Counties.

Mr. Moore, by consent, introduced C. B. No. 57, "An Act to incorporate the Red Mountain Ditch Company."

Read first and second time, and referred to Committee on Incorporations.

Mr. Phelps, by consent, introduced C. B. No. 58, "An Act concerning the location of tunnels."

Read first and second time, and referred to Committee on Mines and Minerals.

Mr. Spratt, by consent, introduced, by Judiciary Committee, C. B. No. 59, "An Act prohibiting the Territorial Auditor from issuing warrants without express provision of law, and other purposes."

Read first and second time, ordered engrossed, and passed to third reading.

A communication from the House was received, and read, as follows :

That C. B. No. 47, "An Act to dissolve the bonds of matrimony between Thomas Caldwell and Miranda Caldwell," was rejected on the first reading.

Mr. Blakely, by previous notice, introduced H. B. No. 62, "An Act to authorize Fountain Donan to construct and maintain a bridge across the West Gallatin."

The House receded from their amendments to C. B. No. 11.

The following bills have passed the House :

H. B. No. 5, "An Act to change the name of the county seat of Missoula county, and to legalize the acts of county commissioners of said county."

H. B. No. 40, "An Act to amend an act defining the duties of county treasurers and the payment of county warrants."

H. B. No. 47, "An Act to incorporate the Helena and Blackfoot Wagon Road Company."

A. H. BARRETT,  
*Chief Clerk H. of R.*

H. B. No. 5, "An Act to change the name of Missoula county," was read first and second time, and referred to Committee on Towns and Counties.

H. B. No. 40, "An Act defining the duties of county treasurers and the payment of county warrants," was read first and second time, and referred to Committee on Ways and Means.

H. B. No. 47, "An Act to incorporate the Helena and Blackfoot Wagon Road Company."

Read first and second time, and referred to Committee on Incorporations.

Mr. Brown, by consent, reported on C. B. No. 53, "An Act to divorce Martha A. Williams and Allen Williams," and suggest that, in the judgment of the Committee, it is very doubtful

whether this body has the legal right to grant divorces, certainly not except in very extreme cases, and there is no evidence before the Committee to lead them to believe that this is one of those cases.

From the fact, therefore, that we have courts whose province it is made by law to hear and determine causes of this character, when the facts can all be brought before the court, enabling the court to determine whether the applicant is, or is not, entitled to the relief asked for—and believing that the proper tribunal to determine the same.

Your Committee, therefore, recommend the bill do not pass.

(Signed) E. S. WILKINSON.  
A. A. BROWN.  
D. TUTTLE.

H. B. No. 16, "To authorize C. Francisco and D. Abbott to construct a ferry across Sun river," was returned, with the statement that the House refused to concur in Council amendments, and asking the Council to recede.

H. B. No. 43, "An Act to incorporate the Virginia City and Nevada Ditching and Fluming Company."

Bill read third time with amendments, and laid on the table.

C. B. No. 49, "An Act to authorize John H. Ming and others, to construct and maintain a toll road in Edgerton and Choteau counties," was read.

Rules suspended, read third time, and passed by the following vote :

*Yeas*—Messrs. Brown, Galloway, Lowry, Phelps, Spratt, Tuttle, and Mr. President—7.

*Nays*—Messrs. Moore, Orr, Wilkinson, and Wilson—4.

Mr. Lowry, chairman of the Committee of the Whole, reported on C. B. No. 22, "An Act to authorize the county commissioners of Edgerton county to erect or purchase a hospital," referring it back, and recommend that it pass, with the following amendments :

Amend section 1, by adding thereto as follows:

“Provided such person or persons has no relative or connexion residing in such county who are able and legally liable to maintain and support such person or persons.”

That blank in section 3 be filled with the words “four thousand.”

Section 4 amended by adding the following: “Provided that pay to such medical and other attendants shall not exceed, in any one year, the sum of five thousand dollars.”

Section 5 amend as follows: Insert between the words “draw” and “on,” the words “on the poor funds, and if necessary.”

Report received, and adopted.

Bill ordered engrossed for third reading.

The Council took a recess until 2 o'clock, P. M.

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#### AFTERNOON SESSION.

Council called to order by the President.

Roll called—all present.

Council resolved itself into Committee of the Whole. Mr. Spratt in the chair.

Committee arose.

The Council took a recess to half past 6 o'clock, this evening.

## EVENING SESSION.

Council called to order by the President.

Roll called—Quorum present.

The Council resolved itself into Committee of the Whole.  
Mr. Spratt in the chair.

The Committee arose.

On motion, the Council adjourned to 10 o'clock, to-morrow morning.

CHAS. S. BAGG,  
*President.*

WM. Y. LOVELL,  
*Chief Clerk.*

## TWENTY-EIGHTH DAY.

DECEMBER 7, 1866.

Council called to order by the President.

Roll called—Quorum present.

Journal read and approved.

The following communication from the Governor was read :

EXECUTIVE OFFICE, VIRGINIA CITY, M. T., }  
December 5, 1866. }

GENTLEMEN—I return to the Council, the body in which it originated, Bill No. 13, entitled “An Act providing for increased compensation to the officers of this Territory and other persons,” with my objections to its becoming a law.

It is wise for a people to husband their resources and not become too deeply involved in public debt; especially should this precaution be cultivated by a young and growing community like this of Montana.

The Treasurer, in his report of Nov. 10, 1866, shortly after the legislature assembled, shows the receipts of the Territory by cash and warrants to be \$23,956.92, as follows :

From Madison county :

By cash .....	\$4,346 98
By warrants .....	4,100 71
	<hr/>
	\$8,447 69

“ Edgerton county :

By cash .....	\$4,624 25
By warrants .....	2,744 55
	<hr/>
	\$7,368 8



From Meagher county :

By cash .....	\$1,300 00
	<hr/>
	\$1,300 00

" Deer Lodge county :

By cash .....	\$2,310 48
By warrants .....	1,921 51
	<hr/>
	\$4,231 99

" Jefferson county :

By cash .....	\$570 00
By warrants .....	332 50
	<hr/>
	\$902 50

" Beaver Head county :

By cash .....	\$ 1 00
By warrants .....	329 09
	<hr/>
	\$330 09

" Missoula county :

By cash .....	\$745 00
By warrants .....	
	<hr/>

" Gallatin county :

By warrants .....	\$630 00
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Total .....	<hr/>	\$23,956 92
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Leaving an outstanding debt to be paid, of \$52,538.25.

By the bill under consideration, the officers of the Territory and other persons therein mentioned are to receive the sum of \$21,680 at the close of this legislature. But this is not all demanded of the people ; the Auditor receives five per cent. on the first twenty thousand dollars of warrants issued by him, and three per cent. on the balance.

The county treasurers are entitled by law to twelve and one-half per cent. on the first five thousand dollars they collect, eight per cent. on the next five thousand, and three per cent. on all over ten thousand.

The tax, therefore, must be increased to such figures as will not only meet the demands of the members and attachees of the legislature but also of the various officers through whose agency money is assessed, collected and paid out; so the gross amount created by this bill will reach somewhere in the neighborhood of \$26,809.26.

You will observe this amount exceeds the entire receipts of November 10, 1866, \$2,852.34, and increases the public debt to \$79,347.51.

The present tax received from—

Beaver Head, is.....	\$330 09	
Increased tax by this bill.....	377 10	
	<hr/>	\$707 19

The present tax received from—

Gallatin county, is.....	\$630 75	
Increased tax by this bill.....	725 62	
	<hr/>	\$1,356 37

The present tax received from—

Missoula county, is.....	\$745 00	
Increased tax by this bill.....	824 57	
	<hr/>	\$1,569 57

The present tax from—

Jefferson county, is.....	\$902 50	
Increased tax by this bill.....	1,023 00	
	<hr/>	\$1,925 50

The present tax from—

Meagher county, is.....	\$1,300 00	
Increased tax by this bill....	1,600 28	
	<hr/>	\$2,900 28

The present tax from—

Deer Lodge county is.....	\$4,231 99	
Increased tax by this bill.....	4,619 65	
	<hr/>	\$8,851 64

The present tax from—

Edgerton county, is.....	\$7,368 90	
Increased tax by this bill.....	7,814 82	
	<hr/>	\$15,183 72

The present tax from—

Madison county, is.....	\$8,447 69
Increased tax by this bill.....	8,852 25
	—————\$17,299 94

Such an increase of taxation is wrong and unjust to the people, as you certainly will conclude when you shall come to reconsider this matter. Doubtless it was not intended that the warrants issued by direction of this bill should be paid by the Treasurer at this time, because there are registered warrants which take precedence sufficient to exhaust whatever money there is in the treasury. Nor was it probably designed that the total amount to be paid the members of the legislature and its attachees, should be collected within the next twelve months; this is immaterial, however; the debt if made will some day be paid and paid alone by an increase of taxes.

The taxes at present, it is generally believed, are high enough, and the people, as far as I can learn, submit with a free good will both to territorial and national assessment; besides the amount paid for Territorial purposes, there is paid to the General Government very nearly one hundred and fourteen thousand dollars, and I may suggest there is little prospect of a decrease in that regard for years to come. Then, instead of increasing the burden, it seems to me that wisdom and prudence and the future prosperity of the Territory would dictate the rapid liquidation of the public debt and a reduction of taxes in every regard.

If this bill becomes a law, it is apparent to every one that territorial scrip rapidly decreases in value, and will scarcely command fifteen or twenty cents to the dollar. The holder of the scrip loses greatly, yet the Territory is bound for every dollar called for on the face of the warrant.

When and how then can it be reasonably expected that the debt of the Territory will be paid? As a matter of exchange between traders and speculators, the scrip will vary in value, but hold a low rate as they may choose, and as the time for payment is delayed, while the masses of the people are held responsible for the whole amount, with interest at the rate of ten per cent. per

annum after presentation and registry. This state of the case should by all means be avoided, and it is believed you will concur, and by appropriate legislation hold the Territory in a secure and rapid course toward relief.

It should be and doubtless is the wish of every one to encourage emigration to this new and wealthy region, to assist in its full development, but will not the contrary be the effect if taxes are already high and on the increase. Men everywhere look with fear and discontent on high and burdensome taxes, and that country imposing the least upon its people is the most numerous in population and the most prosperous.

The bill is objectionable also, on the ground of the application of its provisions to this legislature alone. I consider it an unsafe and prejudicial precedent to establish, that a legislative body may increase the per diem of its members and attachees for the time it is in session. The following General Assembly may do the same and go far beyond in the amount, and so the next, and the next, until there would be no limitation to the expense incurred.

Regretting, gentlemen, to be compelled from a sense of duty to differ with you on this bill, I herewith transmit it to you without my approval.

GREEN CLAY SMITH.

Messrs. Waterbury, Brown and Phelps submitted the following report:

MR. PRESIDENT—Your Special Committee to whom was referred the Governor's message sent to this House of the Legislative Assembly, disapproving of C. B. No. 15, would most respectfully report, that they have had the said message of objections under consideration, and find that under the organic act there is no such branch of the Legislative Assembly designated as a "body," and would ask the Council to return said message to the Executive that His Excellency may have an opportunity to correct said message in that respect, so as to read, "I return to the Council, the House in which it originated," instead of to the body.

Your Committee would respectfully recommend at all times to "husband the resources" of our beloved Territory, and in view of husbanding its resources, have had no action upon the Gov-

ernor's message recommending the establishment of a militia, knowing it would run the Territory in debt one hundred and eighty thousand dollars at least, as recommended in his annual message.

But in respect to the bill which the Governor has had under consideration, your Committee aver that the estimate of amount of extra compensation enumerated by His Excellency in his objections to said bill, is incorrect, and we would state, after a careful computation, that the extra compensation allowed in said bill does not exceed seventeen thousand and five hundred dollars.

Your Committee would further state, after examination of the indebtedness of the Territory by the able reports of the Auditor and Treasurer, they find there is no such sum as fifty-two thousand five hundred and thirty-eight dollars and twenty-five cents indebtedness.

They find, by all the information the Committee can gather, that at this time the indebtedness of the Territory of Montana does not exceed thirty-five thousand dollars, which will be exemplified when the reports of the various treasurers shall be received according to law.

In relation to that portion of the Governor's objections to said bill, wherein he says: "The officers of the Territory will receive the sum of \$21,680 at the end of the session," it is not correct, and your Committee aver, that should the bill pass, the amount appropriated would not exceed \$17,500.

Your Committee further state, that they are aware of the "per cent." which is lawfully received by the officers of this Territory, and believe such remuneration received by said officers, is a fair remuneration for their services; and while such officers are receiving a proper remuneration for their services, the members of the Legislative Assembly, in the opinion of your Committee, should also receive a fair and proper remuneration for theirs as servants of the people, who have signified to the majority of the members of both Houses of the Legislative Assembly their disposition recommending the passing of the same, giving, as said bill does, a fair and just remuneration for their said services. And your Committee cannot see, by investigation of the message, why a measure which gives just remuneration to the members of the



Legislative Assembly should meet opposition and objections from the Executive, when the majority of the members of both Houses are better able than any other to know their own wants and the wishes of their constituency.

Your Committee, in consideration of that part of the message of objections wherein he says :

“It is not intended that the warrants issued by direction of this bill should be paid by the Treasurer at this time.”

Don't know how to harmonize this portion of his message of objections with that portion wherein the Governor says :

“The extra compensation ought not to be granted, because it would impose upon the present inhabitants burdensome taxes.”

Now, if the warrants to be issued (if the bill pass) are to be paid not “at the present time” but in the future, the objection of the Governor is not applicable, because the revenue and license laws now in force, and as intended to be amended, will bring money into the treasury to the amount of seventy-five or eighty thousand dollars, to be paid by the influx of population added to our present numbers, which moneys are to be applied some time hence, when received into the treasury, to the payment of such warrants as may be issued in favor of the recipients of said bill.

The Governor also says in his communication of objections that “If this bill becomes a law it will depreciate the present scrip.”

Your Committee would respectfully represent that they are not bankers, and have no knowledge of the rise and fall of scrip, but with what knowledge and information they have, are of opinion that if the present law of registration of warrants is continued in force, each and every warrant would be paid in the future out of the treasury in their turn at some future period, which could not become burdensome, as alleged in said message of the Governor, on the present inhabitants of the Territory.

It is the wish of your Committee “that the immigration to this country should not be impeded,” as desired in the Governor's communication, and are happy to see the surrounding circumstances by which the Congress of the United States have by their free action so conducted affairs towards the surrounding localities

of the American republic as to invite immigration to Montana, where the taxes are lower at this time than in any other Territory or State.

Your Committee, therefore, are satisfied that the extra compensation which the bill gives *in justice*, would not raise the taxes equal with other organized localities outside of this Territory.

Your Committee are also of opinion, that if the scrip should not be valuable after being issued to the recipients of the bill, the Governor's objections should not hinder the passage of the bill, in justice to the members and attachees, as a "half loaf is better than no bread."

That portion which refers to the coming legislative action of future sessions, your Committee are of opinion that there is no power given in the organic act allowing the Executive of this Territory to veto their action in advance, for "sufficient unto the day is the evil thereof."

Your Committee have one excuse in addition to the palpable justice of the bill which the Governor objects to in said veto message, and that excuse is warranted by the precedence of the late Congress, who raised their compensation to four thousand dollars.

Your Committee freely admit that this report is much longer than it would have been upon the Governor's veto message had not said message been correspondingly long and untenable.

All of which is respectfully submitted.

E. B. WATERBURY.

A. A. BROWN.

E. F. PHELPS.

On motion, the report was received, and adopted by the following vote :

*Yeas*—Messrs. Brown, Galloway, Lowry, Moore, Orr, Phelps, Tuttle, Waterbury, Wilson, and Mr. President—10.

*Nays*—Messrs. Chiles, Spratt, and Wilkinson—3.

Mr. Lowry presented a petition from the citizens of Gallatin county in relation to post offices in said county.

Rules suspended, and petition referred to Committee on Federal Relations.



Mr. Chiles presented a petition from the citizens of Virginia City, opposing the repeal of the city charter.

Referred to Special Committee—Messrs. Lowry, Spratt, and Orr.

Mr. Waterbury, chairman of Committee on Ways and Means, reported on H. B. No. 40, "An Act defining the duties of county treasurers and payment of county warrants," and recommend that it do pass.

Report received, and adopted.

Mr. Brown, chairman, reported C. B. No. 55, "An Act to develop the agricultural interest, etc., of Madison county," recommending that it do pass.

Report received, and adopted.

Mr. Wilson, chairman of Committee on Towns and Counties, to whom was referred petition from citizens of Gallatin county, "Asking for a special election to determine a point for the county seat of that county," would recommend that such point be determined at the next general election.

Report received, and adopted.

Mr. Spratt, chairman of Judiciary Committee, reported on H. B. No. 35, "An Act to secure persons, animals and wagons from dangers arising from mining," and recommend its passage.

Report received, and adopted.

Mr. Phelps, chairman of the Committee on Engrossment, reported C. B. No. 32 and C. B. No. 59, as correctly engrossed.

Mr. Chiles, chairman of the Committee on Enrollment, reported the following bills correctly enrolled :

C. B. No. 46, "An Act to authorize A. A. Brown, John Taze, and A. G. Lee, their heirs, assigns and associates, to construct and maintain a bed rock flume in Ophir Gulch, in Deer Lodge county."

C. B. No. 40, "An Act to authorize D. A. G. Floweree and Rufus E. Arrick, their heirs, assigns and associates, to construct and maintain a bed rock flume in Dry Gulch, in Edgerton county."

C. B. No. 29, "An Act to authorize Owen Gillmore and M. P. Lowry to establish and maintain a ferry or toll bridge across Sun river;" and—

Joint Memorial No. 2, "Praying for an appropriation for capitol buildings."

Mr. Orr, chairman of Committee on Federal Relations, reported on Joint Memorial No. 4, "Asking an appropriation to the Northern Pacific Railroad," and recommend that it be referred to the Committee of the Whole.

Mr. Spratt, chairman of Committee on Judiciary, reported on C. B. No. 38, "An Act concerning penal bonds," reporting the same back, with the following amendments:

"SEC. 29. In all suits on attachment bond, or to recover any penalty therein against the plaintiff in such attachment suits, it shall be lawful for the said party to plead a set off in such suits the original demand upon which said attachment was issued, or any other demand which said defendant may have against such plaintiff."

And, with this amendment, recommend that the bill pass.

Report received and adopted, and bill ordered engrossed for a third reading.

Mr. Spratt, chairman of the Committee of the Whole, to whom was referred House substitute to C. B. No. 6, "An Act concerning landlords and tenants," report the bill back, recommending the same be indefinitely postponed.

Report received, and adopted.

On motion of Mr. Chiles, the substitute to C. B. No. 6 was indefinitely postponed.

Mr. Spratt, chairman of the Committee of the Whole, made report on H. B. No. 56, "An Act providing for the payment of jurors," and recommend the bill pass, with the following amendment:

Strike out all of section 1 of this bill.

Amendment ordered engrossed, and passed to its third reading.

Mr. Spratt, chairman of the Committee of the Whole, reported on H. B. No. 54, "A Bill for the better observance of the Lord's Day," recommending that it do pass.

Report received, and adopted.

Mr. Spratt, chairman of the Committee of the Whole, reported on C. B. No. 32, "An Act defining who shall be incompetent to testify in civil cases in the several courts of Montana," and recommend that the bill do pass.

Bill and report laid on the table.

Mr. Moore made the following report:

Your Joint Committee, appointed to take into consideration the condition of Choteau county, having had the same under consideration, would respectfully submit the following as their report:

That Choteau county was organized, but through a willful disregard or negligence to comply with the laws of this Territory, the proper opportunity having been given them to select their officers to execute the law, and to establish law and order; to collect revenue, and to maintain a proper county government; to contribute to the support of the territorial government, whose protection they claim.

We, your Committee, would therefore recommend that, in case of a failure of the consummation of the perfect organization of said county, by the election or the appointment of the proper officers to fill the various offices within said county, on or before the first day of March next, 1867, the Governor be requested to appoint an assessor and collector for said county, whose duty it shall be made to assess and collect all revenue due the Territory from the residents of that county. Also, the proportion of county tax properly belonging to this territory.

Mr. Wilkinson introduced C. B. No. 61, "An Act to establish a territorial road in Edgerton county."

Read first and second time, and referred to a Committee, consisting of Messrs. Lowry, Wilkinson, and Waterbury.

Mr. Phelps introduced C. B. No. 62, "An Act to provide for taking the census in the year 1867."

Read first and second time, and referred to Committee on Ways and Means.

Mr. Lowry, by previous notice, introduced C. B. No. 60, "To authorize the people of Gallatin county to establish a county seat in said county."

Bill read first and second time, and referred to a Special Committee, consisting of Messrs. Moore, Wilson, and Orr.

The following communication from the House was received :

That H. J. M. No. 4 was, on suspension of the rules, passed Dec. 6.

H. B. No. 59, "An Act to authorize John Lenan to construct a bridge or ferry across the Hell Gate river," passed Dec. 6.

H. B. No. 42, "An Act to incorporate the Virginia City and Helena Telegraph Company," passed Dec. 6.

H. B. No. 52, substitute adopted, and passed Dec. 3.

H. B. No. 66, "An Act to incorporate the Silver Bow Ditch Company," passed Dec. 6.

H. B. No. 60, "An Act to confer certain powers on the sheriff of Edgerton county," passed Dec. 6.

H. B. No. 62, "An Act to authorize Fountain Donan to construct a toll bridge across the West Gallatin," passed Dec. 6.

H. B. No. 49, "An Act to amend an act to incorporate the Montana Bridge and Ferry Company," passed Dec. 6.

C. J. M. No. 3, "Asking for appropriations to open National Road."

The House receded from their amendments.

C. B. No. 35, "An Act in relation to officers failing to make reports as required by law," passed Dec. 6.

C. B. No. 39, "An Act to repeal section 32 of an act in relation to elections," passed Dec. 6.

C. B. No. 45, "An Act granting to R. Hereford and others the right to maintain a toll road in Lost Horse Gulch," passed Dec. 6.

That C. B. No. 23 was rejected, Dec. 6.

That H. B. No. 51 was indefinitely postponed, Dec. 6.

That H. B. No. 46, "An Act concerning collections in Choteau county," was indefinitely postponed, Dec. 6.

H. B. No. 44, "An Act granting Lycurgus Orr the right to maintain a toll road," was indefinitely postponed, Dec. 6.

A. H. BARRETT,

*Chief Clerk House of Representatives.*

H. J. M. No. 4, "Relating to Bannack, Shoshones and Snake Indians," was rejected by the following vote :

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Orr, Phelps, Tuttle, Waterbury, Wilkinson, Wilson, and Mr. President—11.

H. B. No. 55, "To authorize J. L. Kirtley and others to maintain a wagon road from Nevada City to the southern boundary of this Territory."

Read first and second time, and referred to Committee on Incorporations.

H. B. No. 59, "An Act to authorize John Lenan to construct a ferry or bridge across Hell Gate river."

Read first and second time, and referred to Committee of the Whole.

" H. B. No. 42, "An Act to incorporate the Virginia City and Helena Telegraph Company."

Read first and second time, and referred to Committee on Incorporations.

H. B. No. 52, "An Act to incorporate the Little Prickly Pear Wagon Road Company."

Read first and second time, and referred to Committee on Incorporations.

H. B. No. 61, "An Act to incorporate the Silver Bow Ditch Company."

Read first and second time, and referred to Committee on Incorporations.

H. B. No. 60, "An Act to confer certain powers on the sheriff of Edgerton county."

Read first and second time, rule suspended, and bill passed to third reading.

H. B. No. 62, "An Act to authorize Fountain Donan to construct a toll bridge across the West Gallatin river."

Read first and second time, and referred to Committee of the Whole.

H. B. No. 49, "An Act to incorporate the Montana Bridge and Ferry Company," was rejected by the following vote :

*Yeas*—Messrs. Brown, Galloway, Moore, Orr, Phelps, Spratt, Tuttle, Wilson, and Mr. President—9.

*Nays*—Messrs. Lowry, Waterbury, and Wilkinson—3.

C. B. No. 42, "An Act to regulate proceedings in civil cases in Montana Territory."

Read third time, and passed by the following vote .

*Yeas*—Messrs. Lowry, Moore, Phelps, Spratt, Tuttle, Waterbury, Wilkinson, Wilson, and Mr. President—9.

*Nays*—Messrs. Brown, Galloway, and Orr—3.

The title agreed to.

Council took a recess to 2 o'clock, P. M.

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AFTERNOON SESSION.

Council called to order, by the President.

Roll called—Quorum present.

C. B. No. 59, "An Act to prohibit the Territorial Auditor issuing warrants without express provision of law, and for other purposes."

Read third time, and passed by the following vote :

*Yeas*—Messrs. Brown, Chiles, Galloway, Orr, Phelps, Spratt, Tuttle, Waterbury, Wilkinson, Wilson, and Mr. President—11.

Title agreed to.

On motion of Mr. Spratt, H. B. No. 43, "A Bill to incorporate the Virginia and Nevada Ditching and Fluming Company," was taken up, and referred to the Committee of the Whole.

Mr. Brown, by consent, reported on C. B. No. 57, "An Act to incorporate the Lake Ditch Company," and recommend that the same be referred to the Committee of the Whole.

Report received, and adopted.

Mr. Brown reported on H. B. No. 34, "An Act to authorize J. C. Kerby and others to construct a water ditch from Mammoth



Gulch to Red Mountain City, in Deer Lodge county," recommending the same be referred to the Committee of the Whole.

Report received, and adopted.

Mr. Brown reported on H. B. No. 47, "An Act to incorporate the Helena and Blackfoot Wagon Road Company," recommending its passage, with the following amendments:

Strike out the word "exclusive," wherever it appears in said bill, and in section 8, in third and fourth lines, the words "Territorial Treasurer for the use of the Territory," and insert "county commissioners for the use of Deer Lodge county."

Report received, and adopted.

Mr. Brown reported on H. B. No. 52, "An Act to incorporate the Little Prickly Pear Wagon Road Company," and recommend its passage.

Report received, and adopted.

C. B. No. 22, "An Act to provide for the support of the poor," passed by the following vote:

*Yeas*—Messrs. Brown, Galloway, Lowry, Orr, Phelps, Spratt, Tuttle, Wilkinson, and Wilson—9.

*Nays*—Messrs. Chiles, Waterbury, and Mr. President—3.

The title agreed to.

The Council went into Committee of the Whole. Mr. Spratt in the chair.

Committee arose, and the Council resumed its session.

Mr. Chiles made the following report:

Your Committee on Enrollment report that the following bills were handed to His Excellency Governor Smith, for consideration, at 12 o'clock, M.

C. B. No. 46, "An Act to authorize A. A. Brown, John Taze, and A. G. Lee, their heirs, assigns and associates, to construct and

maintain a bed rock flume, in Ophir Gulch, in Deer Lodge county."

C. B. No. 29, "An Act to authorize Owen Gilmore and M. P. Lowry to establish and maintain a ferry or toll bridge across Sun river."

C. B. No. 40, "An Act to authorize D. A. G. Flowerie and Rufus E. Arick, their heirs, assigns, and associates, to construct and maintain a bed rock flume in Dry Gulch, Edgerton county."

Also, Joint Memorial No. 2, "Praying an appropriation of \$150,000 for capitol buildings."

On motion, the report was received and adopted.

On motion, the Council adjourned until to-morrow morning, at 9 o'clock.

CHAS. S. BAGG,  
*President.*

WM. Y. LOVELL,  
*Chief Clerk.*

## TWENTY-NINTH DAY.

DECEMBER 8, 1866.

Council called to order by the President.

Roll called—quorum present.

Journal read, corrected, and approved.

The following message from the Governor was received and read :

EXECUTIVE OFFICE, }  
VIRGINIA CITY, M. T., Dec. 8, 1866. }

GENTLEMEN—I have to inform your honorable body, that I did, on the 7th inst., approve and sign C. B. No. 29, entitled “An Act to authorize Owen Gillmore and M. P. Lowry to establish and maintain a ferry or toll bridge across Sun river.”

Also, C. B. No. 46, entitled “An Act to authorize A. A. Brown, John Taze and A. G. Lee, their heirs, assigns and associates, to construct and maintain a bed rock flume in Summit district, in Ophir Gulch, in Deer Lodge county.”

Also, C. B. No. 40, entitled “An Act to authorize D. A. G. Fleuree and Rufus E. Arrick, their heirs, assigns and associates, to construct and maintain a bed rock flume in Dry Gulch, in Edgerton county.”

Also, Joint Memorial No. 2, “Praying Congress to appropriate one hundred and fifty thousand dollars to erect capitol buildings.”

(Signed) GREEN CLAY SMITH.

On motion of Mr. Waterbury, C. B. No. 15, entitled "An Act providing increased compensation to the officers of the Territory and other persons," was taken up and reconsidered.

The question being put, "Shall the Bill pass, notwithstanding the Governor's objections?" the bill passed by the following vote:

*Yeas*—Messrs. Brown, Galloway, Lowry, Moore, Orr, Phelps, Waterbury, Wilson, and Mr. President—9.

*Nays*—Messrs. Chiles, Spratt, Tuttle, and Wilkinson—4.

A message from the House was received.

The Council took a recess until 2 o'clock, P. M.

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#### AFTERNOON SESSION.

Council called to order by the President.

Roll called—quorum present.

Mr. Chiles, chairman of Committee on Enrollment, reported the following bills correctly enrolled:

C. B. No. 11, "An Act concerning corporations."

C. B. No. 35, "An Act in relation to officers failing to make reports as required by law."

Mr. Wilson, chairman of the Committee on Towns and Counties, to whom was referred H. B. No. 5, "An Act to change the county seat of Missoula county, and to legalize the acts of the county commissioners of said county," recommend it to the consideration of the Committee of the Whole.

Report received, and adopted.

Mr. Brown, chairman, to whom was referred C. B. No. 61, "An Act to incorporate the Silver Bow Ditch Company," recommend its passage.

Report received, and adopted.

Mr. Brown, chairman, to whom was referred H. B. No. 55, "An Act to authorize James L. Kertly and others to establish a toll road from Nevada City to the southern boundary line of the Territory, recommend that it be referred to the Committee of the Whole.

Report received, and adopted.

Mr. Brown, chairman of Committee on Incorporations, to whom was referred H. B. No. 42, "An Act to incorporate the Virginia City and Helena Telegraph Company," recommend the same be referred to the Committee of the Whole.

Report received, and adopted.

Mr. Orr, chairman of Committee on Federal Relations, to whom was referred the petition of sundry citizens of Gallatin county, "Asking for post routes and postoffices in said county," recommend the same do pass.

Report received, and adopted.

Mr. Waterbury, chairman of Committee on Ways and Means; on C. B. No. 41, "An Act to provide a revenue and to collect the same," would recommend that it be committed to Committee of the Whole.

Report received, and adopted.

Mr. Moore, chairman of the Special Committee, to whom was referred C. B. No. 60, "An Act to authorize the people of Gallatin county to establish the county seat of said county," recommend that it pass.

Mr Waterbury, by consent, introduced C. B. No. 63, "An Act

to authorize H. P. Truet and others to construct a bed rock flume in Edgerton county."

Read first and second time, and referred to Committee on Incorporations.

Mr. Phelps, by consent, introduced C. B. No. 64, "To amend an act to regulate proceedings in civil cases."

Read first and second time, and referred to Committee on Judiciary.

The following message from the House was received:

The following notices of the introduction of Bills in the House were given:

By Mr. Van Hagen—"An Act to define the boundary lines of counties in this Territory."

By Mr. Blakely—"An Act to authorize J. J. Tomlinson to construct a ferry across the Yellowstone river."

By Mr. Gallagher—"An Act to repeal an act to incorporate the Gallatin Town Company, approved Feb. 2, 1865."

Also, "An Act to authorize J. A. Culver and others to establish a ferry across the Yellowstone river."

By Mr. Buck—"An Act for the purpose of changing and permanently locating the county seat of Jefferson county."

The following bills were introduced under previous notice:

By Mr. McCullough—H. B. No. 64, "An Act to regulate the fees of officers, jurors and witnesses."

By Mr. Mimms—H. B. No. 65, "An Act to incorporate the town of Helena."

By Mr. Gallagher—H. B. No. 66, "An Act to authorize Samuel Weir and his associates to construct a bridge or ferry on the Madison river."

By Mr. McMurtry—by consent, H. J. M. No. 5, read first and second time, rules suspended, read third time, and passed.

By Mr. Buck—H. B. No. 67, "An Act to authorize Henry McFarland and his associates to establish a ferry across the Missouri."

Mr. McCullough introduced the following resolution which was adopted :

*Resolved*, That a Select Committee of two be appointed to act with a like Committee on the part of the Council, to fill up the blanks in the bill regulating the fees of officers, jurors and witnesses in this Territory."

Messrs. McCullough and Buck were appointed on part of the House.

H. B. No. 28, "An Act to authorize Samuel Bressler and associates to construct a toll road to Sterling City, in Hot Springs district," was passed.

H. B. No. 53, "An Act to authorize Hy. Gassett and others to construct a bridge or ferry across the Jefferson river," was passed.

H. B. No. 23, "An Act to authorize L. H. Warren and associates to construct a ferry across Big Horn river," was passed.

H. B. No. 22, "An Act to authorize L. H. Warren and others to construct a ferry across Clark's Fork of Yellowstone river," was passed.

H. J. M. No. 7, "Asking appropriation for territorial prison," was passed.

C. B. No. 30, was passed.

C. B. No. 26, was passed.

H. B. No. 71, "An Act to invest the St. Louis and Montana Mining Company with certain water privileges," passed Dec. 8, 1866.

A. H. BARRETT,

*Chief Clerk House of Representatives.*

Mr. Galloway offered the following resolution :

*Resolved*, That the hour of the daily meeting of the Council shall be ten o'clock, A. M., until the Council otherwise direct.

Carried.



A Committee of two, consisting of Messrs. Chiles and Galloway, were appointed to confer with a like Committee from the House to fill up blanks in bill regulating fees to officers, jurors and witnesses in this Territory."

H. J. M. No. 5, "Asking Congress to enlarge the jurisdiction of justice of the peace courts of this Territory."

Read first and second time, and referred to Committee on Federal Relations.

H. J. M. No. 7, "Praying an appropriation for a public prison."

Was read first and second time, and referred to Committee on Federal Relations.

H. B. No. 53, "To authorize Hy. Gassett and others to construct a bridge or ferry across the Jefferson river," was read first and second time, and referred to Committee on Incorporations.

H. B. No. 28, "To authorize Samuel Bressler and others to construct a toll road from Virginia City to Sterling," was read first and second time, and referred to Committee on Incorporations.

H. B. No. 22, "To authorize L. H. Warren, H. Gassett and others to construct a ferry across Clark's Fork of the Yellowstone river," was read first and second time, and referred to Committee on Incorporations.

H. B. No. 23, "An Act to authorize L. H. Warren and others to construct a ferry across the Big Horn river."

Read first and second time, and referred to Committee on Incorporations.

Mr. Spratt, chairman of Committee of the Whole, made a report on C. B. No. 51, being "An Act relative to strays," recommend the same back, with the following amendments:

Amend section 1 by inserting at the end of the 7th line, after the word "following," the following: "or at any other time, provided; the stock be breachy and give him trouble."

Also, amend the same section by inserting at the end of section 1, the following:

*"Provided,* That no person shall be allowed to interfere with or take up any stock outside of his lawful inclosure, unless said stock was previously taken up with the stock of the taken up at the place where he usually feeds his own stock."

Also, amend section 3 by striking out the words "to go to the stock," at the beginning of line twenty in said section, and instead thereof, insert the following: "to go to the premises to examine the stock."

Amend section 4 by inserting the following at the end thereof: "and also the printer's fee as provided by this act."

Also, amend section 7 by inserting after the word "them" at the end of third line, the following: "before the title vests in him."

Also, at the end of section 8, add a new section, as follows:

"SEC. 9. It shall be the duty of the county recorder of each county to have published once in each month in some newspaper published in said county, if a newspaper is published therein, or if no newspapers be published, then the nearest county, a list of all the animals recorded in his office as strays during the month preceding such publication. The cost of such publication to be based "pro rata," upon the animals so published, and to be collected as other costs incurred in posting strays, as provided herein: *provided*, that no stray hogs, sheep, goats, calves or colts less than two years of age shall be required to be advertised as strays."

Also, change the number of section 9 to section 10.

With these amendments the bill is recommended to pass.

Report received, and amendments ordered engrossed for third reading.

Mr. Chiles made the following report:

The following bills were handed to the Governor for his con-

sideration, by your Committee on Enrollment, at 2 $\frac{1}{4}$  o'clock, P. M. this day.

C. B. No. 11, "An Act concerning Corporations."

C. B. No. 35, "An Act in relation to officers failing to make reports as required by law."

C. J. R. No. 8, introduced by Mr. Spratt, authorizing the Auditor to issue warrants in favor of A. Leech, Wm. M. Stafford, John S. Rockfellow, and John H. Ming, as follows:

*Resolved*, By the Council of the Legislative Assembly of the Territory of Montana, the House concurring, That the Territorial Auditor be and he is hereby authorized and required to draw his warrants upon the Territorial Treasurer, as follows:

To Andrew Leech, for four days services as commissioner to settle with John S. Lott, late Auditor of this Territory, as authorized by the Legislative Assembly, the sum of forty dollars.

To Wm. M. Stafford, same and like services, forty dollars.

To John S. Rockfellow, same and like services, forty dollars.

To John H. Ming, for the same and like services, forty dollars.

And the Territorial Treasurer is hereby authorized and required to pay such warrants in same and like manner as other cases.

Resolution read first and second time, rules suspended, read third time, and passed by the following vote:

*Yeas*—Messrs. Brown, Chiles, Galloway, Moore, Orr, Phelps, Spratt, Tuttle, Waterbury, Wilkinson, Wilson, and Mr. President—12.

*Nays*—None.

H. B. No. 71, "An Act to invest the St. Louis and Montana Mining Company with certain water privileges."

Read first and second time, and referred to Committee on Incorporations.

Mr. Phelps reported, as chairman of Committee on Engross-

ment, that C. B. No. 38, entitled "An Act concerning penal bonds," was correctly engrossed.

Mr. Phelps reported that the amendments to H. B. Nos. 56 and 47 were correctly enrolled.

A report of commissioners to settle with and examine the books and vouchers of the late Territorial Auditor and Treasurer was read.

Fifty copies ordered printed, and referred to Committee on Ways and Means.

The Council took a recess to half past 6 o'clock this evening.

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#### EVENING SESSION.

Council called to order by the President, at half past 6 o'clock.

Roll called—Quorum present.

The Council resolved itself into Committee of the Whole. Mr. Waterbury in the chair.

Committee arose, and Council resumed its session.

The following report of the commissioners appointed to settle with the late Auditor, John S. Lott, and late Treasurer, J. J. Hull, was read:

The Committee appointed by your honorable body to settle with and examine the books and vouchers of the late Territorial Auditor and Treasurer, respectfully submit the following:

*Statement No. 1.*

Amount of Territorial warrants issued,	.	.	\$83,638.50
“ U. S. “ “ .	.	.	8,308.00
Total amount issued,	.	.	<u>\$91,946.50</u>

*Statement No. 2.*

Amount charged against the Auditor in his books, in favor of W. F. Sanders, for which no warrant was issued, and included in the above,	.	.	\$ 150.00
Amount for which there are no vouchers:			
Warrants issued to J. H. Brown,	.	.	200.00
“ “ Code Commission,	.	.	205.65
“ “ George Hurst,	.	.	<u>1,755.00</u>
Total,	.	.	\$2,160.65

*Statement No. 3.*

Amount issued to Code Commissioners and employees upon the order of their Chairman, W. F. Sanders,	\$9,058.65
The Auditor has an indemnity bond from Mr. Sanders to return the following amount, should the Legislature refuse to allow the same,	\$500.00

*Statement No. 4.*

Amount claimed and charged by the Auditor as commission upon \$91,946.50, total amount of warrants issued, at 5 per cent.,	.	.	\$4,597.32
Amount claimed as salary,	.	.	<u>1,225.00</u>
Total amount for commissions and salary,	.	.	\$5,822.32
Total amount of warrants issued to Auditor,	.	.	5,456.39
Balance due the Auditor if the amount of Code Commission, and that of Geo. Hurst and J. H. Brown are allowed,	.	.	<u>\$365.93</u>

*Statement No. 5.*

Amount of Auditor's commissions upon \$80,727.20, at 5 per cent., after deducting \$11,219.30, amount of Code Commission, Geo. Hurst and J. H. Brown's bills, from \$91,946.50, . . . . .	\$4,036.36
Amount of salary of Auditor, . . . . .	1,225.00
Total amount of commissions and salary, . .	\$5,261.36
Total amount of warrants issued to Auditor, . .	5,456.39
Balance due the Territory, . . . . .	\$ 195.03

*Statement No. 6.*

Total amount received by Treasurer, . . . . .	\$31,052.00
Total amount paid out by Treasurer, \$29,813.64	
Amount of salary due Treasurer, . . . . .	1,225.00
Amount paid J. H. Ming for stationery, . . . . .	14.00—\$31,052.64
Balance due the Treasurer, . . . . .	.64

From the foregoing statement your Committee are of opinion that the Auditor had no legal authority to credit the accounts of the Code Commission, amounting to the sum of \$9,058.65, or that of Geo. Hurst, amounting to \$1,755.00.

In the first case, the Legislature did not clothe the Commissioners, or their chairman, with any authority to present their accounts to the Auditor for liquidation, nor is there any law authorizing the Auditor to issue warrants upon an order from the Code Commission, or their chairman.

It is true the Legislature made the Commissioners their agents to hire clerks and employees, and doubtless their acts thus far may bind the Territory, however exorbitant the contract may be. That is a question which neither the Committee nor the Auditor can take any cognizance of, but is left with the Legislature and Commissioners to settle as they deem proper.

The Auditor might, with the same propriety, adjust the compensation of the Commissioners, as that of the clerks and employees, neither of which positions, in our opinion, are tenable, or justified by any law of the Territory.

The fiscal agents and officers of the Territory should be guided by the strict letter of the law, and not be permitted to shield themselves, under the plea of necessity, for its violation.

The amount issued to Geo. Hurst is based upon the order and certificate of the private secretary of the Governor, and is neither sanctioned by law nor justified by reason.

It appears that Mr. Hurst was employed upon his mission by the Governor, and his affidavit shows that he performed the task assigned him as far as he was able. Notwithstanding this, your Committee can neither justify nor sanction the act of the Auditor.

The only authority the Auditor can have for issuing warrants upon accounts of this character, is upon an order, with a certificate and seal of the Executive thereto.

We have endeavored to make a full statement of the accounts of both the Auditor and Treasurer.

In the statement No. 4, the Territory will owe the Auditor \$365.93. In the statement No. 5, the Auditor will owe the Territory, \$195.03.

We leave the matter with the Legislature to determine which is correct.

The Treasurer we find, from his books and accounts, to be correct.

There is a balance due the Treasurer of 64 cents.

: All of which is most respectfully submitted.

(Signed)

A. LEECH.

W. M. STAFFORD.

JOHN S. ROCKFELLOW.

JOHN H. MING.

Under the order of unfinished business, H. B. No. 38 was taken up, and, on motion, indefinitely postponed.

H. B. No. 40 was, on motion, laid on the table.

H. B. No. 54, being "An Act for the better observance of the Lord's Day," was taken up.

Mr. Lowry moved that the Council adjourn to 10 o'clock, A. M.,



Sunday, and that the bill under consideration be made the special order for that day.

Which motion was lost.

The bill was then read for information.

On motion, the Council adjourned to 10 o'clock, A. M., Monday.

CHARLES S. BAGG,  
*President.*

WM. Y. LOVELL,  
*Chief Clerk.*

## THIRTIETH DAY.

DECEMBER 10, 1866.

Council called to order by the President, at 10 o'clock, A. M.

Roll called—Quorum present.

A petition was presented from the citizens of Argenta to change the name back to Montana; which was laid on the table.

A message from the House was received.

A message from the Governor was received.

Mr. Brown made report on H. B. No. 71, "An Act to invest the St. Louis and Montana Mining Company with certain water privileges," and recommend that it do pass.

Report received, and adopted.

Mr. Brown, chairman, made report on C. B. No. 63, and recommend it to the consideration of the Committee of the Whole.

Report received, and adopted.

Mr. Chiles, chairman of Committee on Enrollment, reported the following bills as correctly enrolled :

C. B. No. 39, "An Act to repeal section 32 of an act relative to elections."

C. B. No. 45, "An Act granting to R. Hereford, M. P. Lowry and Wm. Carter, the right to establish a toll road in Lost Horse Gulch."

Mr. Waterbury, chairman of Committee on Ways and Means, have had C. B. No. 62 under consideration, and would report the same back, with the following amendments:

Strike out the words "county clerks," in line 2, section 2, and insert the word "assessor."

Strike out section 4 and amend section 3, by adding, "and it shall be the duty of the assessor of each county in this Territory to make out a correct list or lists upon the said blanks in the above order, and furnish a correct abstract of the same, together with said list or lists, to the county clerk of the county in which such enumeration was had, who shall certify to the same; and such county assessor shall, on or before the first day of October, A. D. 1867, transmit such abstract to the Territorial Auditor, who shall, on or before the 1st of November, 1867, file the said abstract in the office of the Secretary of the Territory."

With above amendments, we recommend the passage of the bill.

Report received, and adopted.

Mr. Lowry, chairman of Committee of the Whole, reported on H. B. No. 59, H. B. No. 34, and H. B. No. 62. Also, C. B. No. 57.

Having had the same under consideration, report C. B. No. 57, and H. B. No. 34 back, recommending that they be referred to a Select Committee of three.

Also, report H. B. No. 59 back, recommending it pass, with the following amendments:

Amend section 1 by striking out the words "two and one-half miles," and inserting the words "one mile."

Amend section —, by striking out "50" and inserting "30," and by striking out "75" and inserting "50."

Also, to report H. B. No. 62 back to the Council, recommending that it pass, with the following amendments:

Amend section 1 by adding thereto, as follows: "*Providing, further,* That nothing in this act shall be so construed as to interfere with any prior rights, acquired or vested.

Also, amend section 2 by striking out "\$3," and insert, in place thereof, "\$2."

Also, strike out "75," and insert "50."

Also, make the last section, section 5.

Report received and adopted.

Amendments on the two bills ordered engrossed for a third reading.

H. B. No. 52, "An Act to incorporate the Little Prickly Pear Wagon Road Company," was read third time, and passed by the following vote:

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Moore, Orr, Phelps, Spratt, Tuttle, Wilkinson, Wilson, and Mr. President—12.

*Nay*—Mr. Waterbury.

Messrs. Chiles and Galloway, Joint Committee on the part of the Council, to whom was assigned the duty of preparing a fee bill for officers, jurors, etc., of this Territory, would respectfully report that, after much deliberation and care, have agreed upon a scale of fees at the same time liberal to the officers, and relieving, to a considerable extent, the people of the Territory from the heavy and unjust fees they are compelled to pay.

The results of the labors of your Committee are incorporated in a bill now in possession of the House of Representatives, and before them for their consideration.

Your Committee would urge upon the Council the necessity of passing, at this session, a bill changing the present rate of fees, and would recommend that the bill reported by them be passed without amendment.

Report received, and Committee discharged. Report laid on the table.

Mr. Wilkinson, one of the Committee to whom was referred C. B. No. 61, being "An Act to establish a territorial road in Edgerton county," beg leave to make a minority report, and to dissent from the recommendation of the majority of that Committee for the following reasons:

1st. To strike out section 2 of the bill would make the rest inconsistent.

2nd. That while it may be true that no grading is necessary, yet it is equally true that there are many ravines and marshes on the route that will need bridging.

3rd. By leaving out section 2, no one is authorized to open or lay out said road.

I would, therefore, recommend that the bill do pass the Council with an amendment of section 2, providing that the citizens of Helena be not required to do any work on said road.

Messrs. Waterbury and Lowry, of Committee to whom was referred C. B. No. 61, report that no grading, in their opinion, is needed along the line of said road, and recommend that section 2 be stricken out, and the sections be renumbered.

The bill was then referred to a Committee, consisting of Messrs. Phelps, Lowry, Wilson, Moore, and Spratt.

The revenue bill was made special order at 2 o'clock, this afternoon.

Mr. Wilson, chairman of Select Committee, to whom was referred C. B. No. 50, "An Act to incorporate the Deep Creek Canal Company," report it back, and recommend that it pass, with the following amendment:

Strike out all the 6th section to the 18th section.

Message from the House was read, as follows:

That the following Bills were introduced in the House on Saturday, Dec. 8, 1866.

By Mr. McManus—H. B. No. 69, "An Act to incorporate the Missoula Mills and Fort Owens Wagon Road company."

By Mr. Van Hagan—H. B. No. 70, "An Act to define the boundary lines of counties in this Territory."

By Mr. Rogers—H. B. No. 71, "An Act to invest the St. Louis and Montana Mining Company with certain water privileges."

By Mr. Smith—H. B. No. 72, "An Act for the relief of John W. Kerr."

A. H. BARRETT,  
*Chief Clerk.*

A message from the House was received and returned, requesting its correction.

By Mr. Blakely—H. B. No. 73, "An Act to authorize J. J. Tomlinson to construct a bridge or ferry across the Yellowstone river."

By Mr. Jordan—H. B. No. 74, "An Act to amend an act to establish a common school system for the Territory of Montana."

Also, that the following Bills were read the third time, and passed the House, Dec. 8, 1866:

H. B. No. 58, "An Act concerning licenses."

H. B. No. 68, "An Act authorizing the people of Jefferson county to hold an election for the purpose of changing and permanently locating the county seat of Jefferson county."

Also, that the accompanying substitute for C. B. No. 7, "An Act concerning fences," passed the House.

Mr. Johnson gave notice of the introduction of the following Bills:

"An Act to authorize Edward W. Park to construct and maintain a ferry or bridge across the Bitter Root river."

Also, "An Act providing for the funding of the Territorial indebtedness of this Territory."

A. H. BARRETT,  
*Chief Clerk.*

H. B. No. 58, "An Act concerning licenses," was read first and second time, and referred to Committee on Ways and Means.

H. B. No. 68, "To authorize the people of Jefferson county to hold an election to change the county seat of said county," was read first and second time, and referred to Committee on Towns and Counties.

Substitute to C. B. No. 7, "An Act in relation to fences," was referred back to the House for correction.

H. B. No. 61, "To incorporate the Silver Bow Ditch Company," was read third time, and passed by the following vote:

*Yeas*—Messrs. Brown, Chiles, Galloway, Moore, Orr, Phelps, Spratt, Tuttle, Waterbury, Wilkinson, Wilson, and Mr. President—12.

H. B. No. 54, "An Act for the better observance of the Lord's Day," was taken up. Call of the House demanded. Call dispensed with. History of the bill was read. Mr. Waterbury being in the chair.

Mr. Bagg moved it be recommitted to Committee or the Whole. Lost.

Mr. Orr moved the previous question. Carried.

Motion to adjourn. Lost.

Bill was read in full, and passed by the following vote :

*Yeas*—Messrs. Galloway, Moore, Orr, Phelps, Tuttle, Wilkinson, and Wilson—7.

*Nays*—Messrs. Brown, Chiles, Lowry, Spratt, and Waterbury—5.

The title was objected to.

Mr. Waterbury, chairman of the Committee of the Whole, reported that H. B. No. 5 be referred back, with the following amendments :

Add to section 1, "and the legal voters of said Missoula county at the next general election shall inscribe upon their ballots the place where the said county seat shall be located ; and the highest number of votes designating the place shall be the county seat of said county."

Strike out sections 2 and 3 of the bill.

Number sections 4 and 5 sections 2 and 3 respectively, and strike out the word "declared" in section 3.

With the above amendments we recommend the passage of the bill.

Report received, and adopted, and bill ordered engrossed for third reading.



C. B. No. 44. The instructions of the Committee are, that the bill be reported back to the Council, with the recommendation that it be indefinitely postponed.

On motion of Mr. Chiles, the bill was indefinitely postponed.

H. B. No. 42 was referred back, with recommendation that it be indefinitely postponed.

On motion of Mr. Chiles, the bill was indefinitely postponed.

Council went into Committee of the Whole.

Committee arose, and Council adjourned to 3 o'clock, P. M.

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#### AFTERNOON SESSION.

Council called to order by the President, at 3 o'clock.

Roll called—quorum present.

Message from the House received.

H. B. No. 16, House refused to concur in Council amendments. The bill was referred back, requesting the House to recede.

H. B. No. 56, "Providing for payment of jurors in Montana Territory," was read third time, and passed by the following vote:

*Yeas*—Messrs. Brown, Chiles, Galloway, Moore, Orr, Tuttle, Waterbury, Wilkinson, and Mr. President—9.

*Nays*—Messrs. Lowry, Phelps, and Spratt—3.

Title agreed to.

H. B. No. 36, "To incorporate the Madison Bridge Company," was read third time, amendments adopted, and passed by the following vote:

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Moore, Orr, Phelps, Spratt, Tuttle, Waterbury, Wilkinson, Wilson, and Mr. President—13.

Title agreed to.

The Council resolved itself into a Committee of the Whole upon the revenue bill.

Committee arose, and Council resumed its session.

Mr. Chiles, chairman of Committee on Enrollment, reported that the following bills were handed to the Governor at 11½ o'clock, A. M., this day:

C. B. No. 45, "An Act granting to R. Hereford, M. P. Lowry and William Carter the right to establish and maintain a toll road in Lost Horse Gulch."

C. B. No. 39, "An Act to repeal section 32 of an act relative to elections."

A message from the Governor was read, as follows:

EXECUTIVE OFFICE,  
VIRGINIA CITY, M. T., Dec. 10, 1866. }

MR. PRESIDENT—I inform your honorable body, that I have this day approved and signed C. B. No. 11, "An Act concerning Corporations."

Also, C. B. No. 35, "An Act in relation to officers failing to make reports as required by law."

(Signed) GREEN CLAY SMITH.

Mr. Waterbury moved that one hundred copies of C. B. No. 11, "An Act concerning corporations," be printed.

Motion carried.

Mr. Orr introduced C. B. No. 64, "To authorize C. D. Leutzenheimer and others to establish a ferry in Meagher county."

Read first and second time, and referred to Committee on Incorporations.

Mr. Brown, chairman of Committee on Incorporations, reported C. B. No. 64 back to the Council, and recommend its passage.

Mr. Brown called up H. B. No. 43, "An Act to incorporate the Virginia and Nevada Ditching and Flaming Company."

The Council went into Committee of the Whole upon said bill.

The Committee arose, and Council took a recess until 6½ o'clock, this evening.

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#### EVENING SESSION.

Council called to order.

Roll called—quorum present.

Mr. Phelps reported C. B. No. 51 correctly engrossed.

Mr. Brown reported on H. B. No. 23, "To authorize L. H. Warren and others to construct a ferry over Big Horn river," and recommend its passage.

Report received, and adopted.

Bill was taken up, read third time under suspension of rules, and passed by the following vote:

*Yeas*—Messrs. Brown, Chiles, Lowry, Moore, Orr, Phelps, Spratt, Tuttle, Waterbury, Wilkinson, and Wilson—11.

*Nays*—Mr. Galloway, and Mr. President—2.

Mr. Lowry, chairman, by consent, made the following report :

Your Committee, to whom was referred the petition and remonstrance of the citizens of Virginia City with reference to the repeal of their charter, beg leave to report :

That on investigation, they find that the First Legislature of this Territory that held its session at Bannack City passed an act incorporating Virginia City, and that immediately thereafter, an organization was effected under the provisions of said act, which has continued in force to this day.

Your Committee are advised that said charter was obtained and put in force without submitting to a vote of the people of said place, whether or not they desired said charter or an organization under its provisions.

Your Committee are of the opinion, that it is not in accordance with our republican and democratic institutions to impose upon any people, organizations or systems of government without their consent.

They are also of the opinion, that should any particular locality adopt any system of municipal government, the right is reserved to the people thereof to change, alter, regulate, or utterly reject and repudiate said organization at their pleasure.

Your Committee doubt the propriety of the Legislature passing an act unconditionally repealing said charter.

But in view of the fact, that nearly three hundred persons, claiming to be citizens of Virginia City, have earnestly petitioned for the unconditional repeal of said charter, and that a large number of persons, property holders and residents of said city, have remonstrated against the repeal thereof, your Committee believe, that in order to arrive at the wish of a majority of the *bona fide* citizens of said place, as to whether or not they desire a continuance of their incorporate organization, the question should be submitted to a vote of said citizens ; and to that end, your Committee report the accompanying bill to the Council, and recommend its passage.

(Signed)

T. J. LOWRY, *Chairman.*

J. G. SPRATT.

S. ORR.

Report was received, and adopted, and Committee discharged.

A bill recommended by the Committee, being C. B. No. —, was read first and second time, and referred to a Committee consisting of Messrs. Chiles, Spratt, and Tuttle.

C. B. No. 63, "To authorize H. P. Truet to construct a bed rock flume in Edgerton county, was read first and second time, rules suspended, bill read third time, and passed by the following vote:

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Moore, Phelps, Spratt, Tuttle, Waterbury, Wilkinson, Wilson, and Mr. President—12.

*Nay*—Mr. Orr.

The title agreed to.

C. B. No. 16 was reported back, and made special order for 10 o'clock, to-morrow morning.

The following message was received from the House :

That C. B. No. 49 has passed the House, "Authorizing John H. Ming and associates to construct and maintain a toll road in Edgerton and Choteau counties."

On motion of Mr. Tuttle, C. B. No. 55, "An Act to develop the agricultural interests, etc., in Madison county," was taken up, bill read, and ordered engrossed for third reading.

Mr. Spratt, chairman of the Committee of the Whole, reported on C. B. No. 41, recommending it back to the Council with the following amendments :

Strike out the words "one hundred" in the 14th line of section 1, and insert "sixty" instead thereof.

With this amendment, we recommend the passage of the bill.

Report received, and laid on the table, and bill recommitted to the Committee of the Whole.

Mr. Spratt, by previous notice, introduced C. B. No. 65, "To change the venue in civil and criminal cases."

Read first and second time, rules suspended, and ordered to be printed.

Mr. Phelps reported the amendments to H. B. No. 62 correctly engrossed.

Mr. Wilson, chairman, reported on C. B. No. 56, "In relation to fast riding in towns, etc.," recommending it to the consideration of the Committee of the Whole.

Report received, and adopted.

C. J. M. No. 5, "For postoffice and post routes in Montana Territory."

Read first and second time, and referred to Committee on Federal Relations.

Mr. Brown, chairman of the Committee on Incorporations, reported on H. B. No. 53, "To authorize H. Gassett and J. Sinclair to construct a ferry or bridge across the Jefferson river."

Report received, and adopted.

Bill read third time, and passed by the following vote :

*Yeas*—Messrs. Brown, Galloway, Lowry, Moore, Orr, Phelps, Waterbury, Wilkinson, Wilson, and Mr. President—10.

*Nays*—Messrs. Spratt, and Tuttle—2.

The title was agreed to.

Message from the House was received, stating that H. B. No. 77 passed Dec. 12, 1866.

That amendments to House Bill were concurred in by the House, and H. J. R. No. 4 was passed Dec. 12, 1866.

The Council adjourned to 10 o'clock, to-morrow morning.

CHAS. S. BAGG,  
*President.*

WM. Y. LOVELL,  
*Chief Clerk.*

## THIRTY-FIRST DAY.

DECEMBER 11, 1866.

Council called to order by the President.

Roll called—Quorum present.

Journal read, corrected and approved.

Mr. Brown, chairman, reported on H. B. No. 43, and asked leave to sit again.

Report received, and adopted.

Mr. Brown, chairman of Committee on Incorporations, reported on H. B. No. 28, "An Act to authorize Sam. Bressler and others to construct a toll road, etc.," and recommend its passage, with the following amendments:

Section 1, in 11th line, strike out the words "four miles," and insert "one-half mile."

Strike out the word "exclusive" wherever it occurs.

Mr. Brown, chairman of Committee on Incorporations, reported on H. B. No. 22, "An Act to authorize Warren, Gassett and Sinclair to establish a ferry across the Clark's fork of the Yellowstone river," and recommend its passage.

Report received, and adopted.

Mr. Galloway, chairman of Committee on Ways and Means, reported on C. B. No. 58, "An Act concerning the location of tunnels," and recommend it be referred to the Committee of the Whole.

Report received, and adopted.



Mr. Waterbury, chairman, reported on H. B. No. 58, "An Act concerning licenses," and recommend it be considered in Committee of the Whole.

Report received and adopted, and made special order for 2 o'clock, this afternoon.

Mr. Brown gave notice that he would, on to-morrow, introduce a bill entitled "An Act to authorize James R. Bailey to construct a toll bridge on Hell Gate river, in Deer Lodge county."

Mr. Galloway offered the following resolution :

*Resolved*, That the Council shall not, after to-morrow, entertain any new matter for private legislation.

Resolution adopted.

H. B. No. 71, "To invest the St. Louis and Montana Mining Company with certain water privileges," was read, and recommit-  
ted to the Committee of the Whole.

Mr. Phelps, chairman of Committee on Engrossment, to whom was referred Council Bills Nos. 50 and 55, entitled, respectively, "An Act to incorporate the Deep Creek Canal Company," and a bill for "An Act to develop the agricultural interests, and for the construction of a canal for irrigating purposes in the county of Madison," have examined the engrossed copies, and find the same correctly engrossed.

H. B. No. 62, "To authorize Fountain Donan to construct a toll bridge on the West Gallatin river," with amendments, was read third time, rules suspended, and passed by the following vote :

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Moore, Orr, Phelps, Spratt, Tuttle, Waterbury, Wilson, and Mr. President  
—12.

*Nays*—None.

Title agreed to.

H. B. No. 60, "An Act to confer certain powers on the sheriff of Edgerton county," was read, and referred to a Committee of three, consisting of Messrs. Moore, Spratt, and Wilson.

C. B. No. 51, "An Act in relation to strays," was read third time, and passed by the following vote :

*Yeas*—Messrs. Galloway, Lowry, Moore, Orr, Phelps, Tuttle Waterbury, Wilkinson, and Wilson—9.

*Nays*—Messrs. Brown, Chiles, Spratt, and Mr. President—4.

Title agreed to.

C. B. No. 38, "An Act concerning penal bonds," was read third time, and passed by the following vote :

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Phelps, Spratt, Tuttle, Waterbury, Wilkinson, and Wilson—10.

*Nays*—Mr. Moore, and Mr. President—2.

Title agreed to.

C. B. No. 60, "An Act authorizing the people of Gallatin county to establish the county seat of said county," was passed by the following vote :

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Moore, Orr, Phelps, Spratt, Tuttle, Wilkinson, and Wilson—11.

*Nays*—Mr. Waterbury, and Mr. President—2.

Title agreed to.

C. B. No. 64, "To authorize C. D. Louthenheisen and others to construct a ferry across the Missouri river, at the mouth of Trout creek," was read, rules suspended, bill considered engrossed, read third time, and passed by the following vote :

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Moore, Orr, Phelps, Spratt, Tuttle, Waterbury, Wilkinson, Wilson, and Mr. President—13.

Title was agreed to.

The Council took a recess until 2 o'clock, P. M.

## AFTERNOON SESSION.

Council called to order by the President.

Roll called—Quorum present.

Mr. Brown, by consent, introduced C. B. No. —, "To authorize A. G. Lee and others to construct a toll road from Blackfoot City, in Deer Lodge county, to Lost Horse Gulch, in Edgerton county."

Referred to the Committee of the Whole.

The Council resolved itself into a Committee of the Whole.

[ The Committee arose, and Council resumed its session.

The following communication was received from the House :

The following bills were introduced in the House on the 10th inst. :

By Mr. Johnson, H. B. No. 75, "An Act to authorize Edward W. Park to erect a bridge across the Bitter Root river."

By Mr. Gallaher, H. B. No. 76, "To authorize J. A. Culver and L. H. Warren to keep a ferry on the Yellowstone river."

By Mr. Johnson, H. B. No. 77, "An Act providing for the funding the debt of Montana Territory."

[ The following bills passed the House on the 10th inst. :

H. B. No. 66, "An Act to authorize Samuel Weir and associates to construct and maintain a bridge or ferry across the Madison river, near the mouth of the same."

H. B. No. 67, "An Act to authorize H. McFarland, his heirs and assigns, to maintain a ferry across the Missouri river."

H. B. No. 69, "An Act to incorporate the Missoula Mills and Fort Owen Wagon Road Company."

H. B. No. 7, "An Act to define the boundary lines of counties in this Territory."

H. B. No. 73, "An Act to authorize J. J. Tomlinson to construct a bridge or ferry on the Gallatin river."

H. J. M. No. 6, "Asking the P. M. General to establish the postal money order system in Montana Territory."

C. B. No. 48, "An Act to authorize Thomas A. Holmes and associates to establish a ferry across the Missouri river."

C. B. No. 54, "An Act to incorporate the Grasshopper Creek Ditch and Mining Company," with the accompanying amendments.

C. B. No. 23, "An Act incorporating the Beaver Head Gold and Silver Mining Company," with accompanying amendments.

C. J. R. No. 8 passed the House.

C. B. No. 15 was lost in the House.

A. H. BARRETT, *Chief Clerk.*

Mr. Moore, by consent, introduced C. B. No. 67, "An Act to incorporate the Madison Bridge and Ferry Company."

Read first and second time, and referred to Committee on Incorporations.

The Council took a recess until 6½ o'clock, P. M.]

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#### EVENING SESSION.

Council called to order.

Roll called—quorum present.

The following report was read :

Your Special Committee of five, to whom was referred C. B. No. 57 and H. B. No. 34, after a careful examination of the deed and

notices of pre-emption, and other evidences accompanying, of the parties named in said bills, beg leave to report that, in the judgment of your Committee the parties named in H. B. No. 34 are the only claimants who have any just claim or right to the water privilege asked for in said bill. Therefore, your Committee recommend H. B. No. 34 be passed, and the indefinite postponement of C. B. No. 51.

(Signed)

E. F. PHELPS, *Chairman*.

J. G. SPRATT.

G. G. WILSON.

T. J. LOWRY.

Report received, and Committee discharged.

On motion, rules were suspended, H. B. No. 34, "An Act to authorize J. C. Kerby and W. H. Todd, their heirs and assigns, to construct and maintain a water ditch from Mammoth Gulch to Red Mountain City, in Deer Lodge county," was read third time, and passed by the following vote :

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Phelps, Spratt, Tuttle, Waterbury, Wilson, and Mr. President—10.

*Nays*—Messrs. Orr and Wilkinson—2.

Mr. Chiles introduced, by consent, C. B. No. 69, "An Act to amend an act defining the duties of county treasurers, and the payment of county warrants."

Read first and second time, rules suspended, read third time, and passed by the following vote :

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Orr, Phelps, Spratt, Tuttle, Waterbury, Wilson, and Mr. President—11.

*Nay*—Mr. Wilkinson.

Title amended as follows : "An Act to amend section 6 of an act entitled an act defining the duties of county treasurers, and the payment of county warrants."

C. B. No. 55, "An Act to develop the agricultural interests,

and for the construction of a canal for irrigating and other purposes, in the county of Madison," was taken up, rules suspended, read third time, and passed by the following vote :

*Yeas*—Messrs. Brown, Galloway, Lowry, Moore, Orr, Phelps, Tuttle, Waterbury, Wilkinson, and Mr. President—10.

*Nays*—Messrs. Chiles and Spratt—2.

Title agreed to.

C. B. No. 41, "An Act to provide revenue, and for collecting the same for territorial and county purposes."

Read first and second time, rules suspended, read third time and passed by the following vote :

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Orr, Phelps, Spratt, Tuttle, Waterbury, Wilkinson, Wilson, and Mr. President—12.

Title agreed to.

Message from the House was received, as follows :

The House refuse to concur in the Council amendments of H. B. No. 16, and respectfully ask your honorable body to recede from their amendments.

The Council refused to recede from the amendments to H. B. No. 16.

Mr. Brown, by previous notice, introduced C. B. No. 68, "An Act to authorize James M. Bailey, his heirs and assigns, to construct and maintain a toll bridge on the Hell Gate river, in Deer Lodge county."

Rules suspended, bill read first and second time, and referred to Committee of the Whole.

C. B. No. 50, "To incorporate the Deep Creek Canal Company," was read third time, and passed by the following vote :

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Moore, Orr, Phelps, Spratt, Tuttle, Waterbury, Wilkinson, and Wilson—12.

*Nay*—Mr. President.

Title agreed to.

H. B. No. 54, "An Act for the better observance of the Lord's Day," was taken up, and, on motion, the title was agreed to.

Mr. Chiles, chairman of Committee on Enrollment, reported C. B. No. 49, "An Act authorizing John H. Ming, James L. Ward and J. A. Johnson to construct and maintain a toll road in Edgerton and Choteau counties," correctly enrolled.

Message from the Governor was received.

Council went into executive session on Governor's Message.

Executive session was dissolved, and Council resumed.

Council then resolved itself into Committee of the Whole. Mr. Brown in the chair.

Committee arose.

The Council adjourned to 10 o'clock to-morrow morning.

CHARLES S. BAGG,  
*President.*

WM. Y. LOVELL,  
*Chief Clerk.*



## THIRTY-SECOND DAY.

DECEMBER 12, 1866.

Council called to order by the President.

Roll called—Quorum present.

At request of Mr. Orr, the name of C. D. Louthenheimer was corrected to O. D. Louthensheimer and A. J. Burt, in Council Bill No. 64.

Mr. Brown reported on H. B. No. 58, "An Act in relation to licenses."

Report received, and adopted, and bill ordered engrossed for third reading.

H. B. No. 67, "To authorize H. B. McFarland and others to construct a ferry across the Missouri river," was read first and second time, and referred to Committee on Incorporations.

H. B. No. 37, "An Act to locate the seat of government of Montana Territory."

Read first and second time, and referred to a Committee—consisting of Messrs. Phelps, Brown, and Wilson.

H. J. M. No. 6, "To the Postmaster General for the establishment of postal money order system in Montana Territory."

Read first and second time, and referred to Committee on Federal Relations.

H. B. No. 66, "To authorize S. Weir and others to construct a bridge or ferry across the Madison river."

Read first and second time, and referred to Committee on Incorporations.

H. B. No. 73, "To authorize J. J. Tomlinson to construct a bridge or ferry across Clark's Fork of the Yellowstone river."

Read first and second time, and referred to Committee on Incorporations.

H. B. No. 70, "An Act to define the boundary lines of this Territory."

Read first and second time, and referred to Committee on Towns and Counties.

H. B. No. 69, "To incorporate the Missoula Mills and Fort Owen Wagon Road Company."

Read first and second time, and referred to Committee on Incorporations.

C. B. No. 30, "To incorporate the Lemhi Wagon Road Company."

Read with House amendments, and Council concurred in the same.

C. B. No. 26, "To incorporate the Missouri river Wagon Road and Telegraph Company."

Read with House amendments.

Council did not concur in amendments, and requested the House to recede.

Message from the House was received.

C. B. No. 23, "To incorporate the Beaver Head Gold and Silver Mining Company," with House amendments, read.

Council concurred in amendments.

C. B. No. 54, "To incorporate the Grasshopper Creek Ditch and Mining Company," was read, with House amendments.

Council concurred in amendments.

Mr. Chiles made a report on C. B. No. 65.

Report not adopted, and bill recommitted to the Judiciary Committee.

H. B. No. 47, "To incorporate the Helena and Blackfoot Wagon Road Company," with amendments, read.

Section 8 of amendments was stricken out.

Bill read third time, and passed by the following vote:

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Moore, Orr, Phelps, Spratt, Tuttle, Waterbury, Wilkinson, Wilson, and Mr. President—13.

Title agreed to.

H. B. No. 60, "To confer certain powers on the sheriff of Edgerton county," was read, rules suspended, read third time, and passed by the following vote:

*Yeas*—Messrs. Brown, Galloway, Lowry, Moore, Phelps, Spratt, Tuttle, Waterbury, Wilkinson, and Wilson—10.

*Nays*—Messrs. Chiles, Orr, and Mr. President—3.

Title was agreed to.

Mr. Phelps, chairman of Committee on Engrossment, reported the amendments to H. B. No. 5 as correctly engrossed.

Message from the House received.

Mr. Chiles chairman of Committee on Enrollment, reported that the following bills were handed to the Governor this day, at 11 o'clock, A. M.:

C. B. No. 49, "An Act authorizing J. H. Ming and others to construct and maintain a toll road in Edgerton county."

C. J. R. No. 8, "Authorizing the Auditor to issue warrants in favor of Leech, Stafford, and others."

Mr. Wilson reported on H. B. No. 68, "Authorizing the people of Jefferson county to hold election, etc."

Report received, and adopted, and bill referred to Committee of the Whole.

H. B. No. 58 was amended by motion of Mr. Waterbury; the words "one dollar" were stricken out and "25 cents" inserted.

Bill adopted as amended, ordered engrossed, and passed to a third reading.

Mr. Spratt, chairman of the Committee of the Whole, reported on House Bills Nos. 52, 61, 64, 58, 66, 68, 43, 55, 59, 71, 22, and 68, and Joint Memorial No. 4, recommend the same be further considered.

Report received, and adopted.

H. B. No. 55, "To authorize B. F. Price and others to maintain a toll road from Nevada City to the southern boundary of this Territory," was read, rules were suspended, bill read third time, and passed.

*Yeas*—Messrs. Brown, Chiles, Lowry, Moore, Orr, Phelps, Spratt, Tuttle, Wilkinson, Wilson, and Mr. President—11.

Title agreed to.

H. B. No. 71, "To invest the St. Louis and Montana Mining Company with certain water privileges," was read, and referred to a Committee of three, consisting of Messrs. Spratt, Moore, and Wilkinson.

Mr. Chiles moved that Mr. Phelps be included in the committee.

Objected to by the chair.

Mr. Chiles appealed from the decision.

The chair was not sustained by the following vote:

*Yeas*—Messrs. Moore, Tuttle, and Wilkinson—3.

*Nays*—Messrs. Chiles, Galloway, Orr, Spratt, and Wilson—5.

Messrs. Phelps, Lowry and Brown were excused.

On motion of Mr. Chiles, Mr. Phelps was added to the Committee.

A message from the House was received.

C. B. No. 64, "To authorize A. G. Lee and others to maintain a toll road from Blackfoot City to Lost Horse Gulch," was taken up, rules suspended, bill read third time, and passed by the following vote :

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Moore, Orr, Phelps, Spratt, Tuttle, Wilkinson, Wilson, and Mr. President—12.

Title was agreed to.

C. B. No. 61, "An Act to establish a territorial road in Edgerton county," was read, and referred back to the delegation from Edgerton county.

C. B. No. 58, "An Act in relation to tunnels," was read with amendments—amendments considered engrossed, bill read third time, and passed by the following vote:

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Orr, Phelps, Spratt, Tuttle, Wilkinson, Wilson, and Mr. President—11.

The title was agreed to.

The Council took a recess to 2 o'clock, P. M.

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#### AFTERNOON SESSION.

Council called to order by the President.

Roll called—Quorum present.

Mr. Spratt, chairman, to whom was referred H. B. No. 71, report the same back, recommending the same be considered and disposed of by the Council.

(Signed) J. G. SPRATT.  
E. F. PHELPS.  
M. A. MOORE.

Report received, and Committee discharged.

Mr. Spratt, by consent, asked leave that substitute C. B. No. 16 be made a special order for to-morrow. Granted.

Mr. Phelps reported that the amendments to H. B. No. 58 are correctly engrossed.

Mr. Chiles, chairman of the Committee on Enrollment, reported the following bill correctly enrolled :

C. B. No. 48, "An Act to authorize Thomas A. Holmes and Luther M. Brown, their associates, heirs and assigns, to establish a ferry across the Missouri river."

House Joint Memorial No. 3, "An application to re-open the Mullen road."

H. B. No. 71, "To invest the St. Louis and Montana Mining Company with certain water privileges," was called up.

1st amendment was not adopted.

2nd amendment and second section adopted.

Mr. Moore moved to amend by striking out "50" and insert "10." Adopted.

Mr. Phelps moved to amend by striking out "exclusive," in 1st line, 2nd section. Adopted.

Bill was adopted as amended, and amendments ordered to be engrossed and pass to third reading.

H. B. No. 43 was taken up and amended. Amendments ordered engrossed for third reading.

C. B. No. 52 was taken up and adopted as amended, and ordered engrossed for a third reading.

Message from the House received.

Mr. Phelps, chairman, reported the amendments to H. B. No. 71 as correctly engrossed.

Bill read by its title, and passed by the following vote :

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Moore, Orr, Phelps, Spratt, Tuttle, Waterbury, Wilkinson, and Wilson—12.

*Nay*—Mr. President.

Title agreed to.

Mr. Phelps, chairman, reported H. B. No. 43, "An Act to incorporate the Virginia and Nevada Ditching and Fluming Company," correctly engrossed.

Rules suspended, bill read third time, and passed by the following vote :

*Yeas*—Messrs. Brown, Chiles, Lowry, Moore, Orr, Spratt, Waterbury, Wilkinson, and Mr. President—9.

*Nays*—Messrs. Galloway, Phelps, Tuttle, and Wilson—4.

Title was agreed to.

H. B. No. 22, "To authorize L. H. Warren, H. Gassett and others to establish a ferry across the Yellowstone river."

Rules suspended, bill read third time, and passed.

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Moore, Orr, Phelps, Spratt, Tuttle, Waterbury, Wilkinson, and Wilson—12.

*Nay*—Mr. President.

Title agreed to.

C. B. No. 68, "To authorize J. H. Bailey to maintain a toll bridge across Hell Gate river."

Rules suspended, bill read third time, and passed by the following vote :



*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Spratt, Tuttle, Waterbury, Wilkinson, Wilson, and Mr. President—10.

*Nay*—Mr. Orr.

Title agreed to.

H. B. No. 59, "To authorize John Lenan to construct a toll bridge across Hell Gate river."

Rules suspended, bill read third time, and passed by the following vote:

*Yeas*—Messrs. Brown, Galloway, Lowry, Moore, Orr, Phelps, Spratt, Tuttle, Waterbury, Wilkinson, Wilson, and Mr. President—12.

*Nay*—Mr. Chiles.

Title was agreed to.

A message from the House was read as follows :

That H. B. No. 75 passed the House, Dec. 12.

That C. B. No. 42 passed the House with accompanying amendments.

C. B. No. 66, "Relating to change of venue in civil and criminal cases," was taken up, ordered engrossed, rules suspended, bill read third time, and passed by the following vote :

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Moore, Orr, Phelps, Spratt, Tuttle, Waterbury, Wilkinson, Wilson, and Mr. President—13.

The title was agreed to.

Mr. Moore offered C. J. R. No. —, "That the Territorial Auditor be directed to draw a warrant on the Territorial Treasurer for \$230 in favor of J. M. Castner for boarding prisoners committed to jail by the Governor."

Resolution received, and referred to Committee on Ways and Means.

Mr. Orr, chairman of Committee on Federal Relations, to whom

was referred House Joint Memorial No. 5, "Asking Congress to amend the organic act, so as to increase the jurisdiction of justices of the peace to five hundred dollars," reported, recommending its passage."

Report received, and adopted.

Rules suspended, memorial read third time, and passed by the following vote :

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Moore, Orr, Phelps, Spratt, Tuttle, Waterbury, Wilkinson, and Wilson—12.

*Nay*—Mr. President.

The title was agreed to.

H. B. No. 75, "To authorize E. W. Park to erect a bridge across the Bitter Root river," was read first and second time, and referred to the Committee on Incorporations.

Mr. Spratt called up C. B. No. 42, "To regulate proceedings in courts of this Territory."

The House was requested to recede from substitute to section 21.

The Council concurred in all other amendments.

The Council took a recess until half past 6 o'clock, this evening.

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#### EVENING SESSION.

Council called to order by the President.

Roll called—Quorum present.

Mr. Chiles, chairman of the Committee on Enrollment, reported C. B. No. 54, "An Act to incorporate the Grasshopper Creek Ditch and Mining Company," correctly enrolled.

The Special Committee to whom was referred H. B. No. 37, report the same back, and recommend it do pass.

(Signed) E. F. PHELPS.  
G. G. WILSON.  
A. A. BROWN.

Report received, and adopted.

Mr. Phelps reported C. B. No. 52 correctly engrossed.

Report received, and adopted.

C. B. No. 52, "To incorporate the Passamari Canal Company," was read third time, and passed by the following vote:

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Orr, Phelps, Spratt, Tuttle, Waterbury, Wilkinson, and Mr. President—11.

Title agreed to.

A message from the House was received and read, as follows:

The following bills were introduced, previous notice being given:

By Mr. McManus—H. B. No. 78, "An Act to incorporate the Prickly Pear and Dry Gulch Ditch Company."

Mr. Smith—H. B. No. 79, "To incorporate the Montana Hydraulic and Mining Company."

Mr. Van Hagan—H. B. No. 80, "An Act to authorize D. A. G. Floweree to construct and maintain a ferry or bridge across the Missouri river."

Mr. McMurtry—H. B. No. 81, "An Act defining the boundary lines of Deer Lodge and Jefferson counties.

H. J. R. No. 4 was introduced by Mr. McMurtry.

C. B. No. 36 was passed by the House, Dec. 11, 1866.

H. B. No. 57, "An Act to incorporate the Montana Stage Company."

H. B. No. 49 was lost on third reading.

C. B. No. 21 was passed, with the accompanying amendments.

C. B. No. 59 was passed, with accompanying amendments.

That Council amendments to H. B. No. 36 were concurred in.

Also, that C. B. No. 51 was rejected.

C. B. No. 38 has passed the House.

C. B. No. 69 was laid on the table for further consideration.

A. H. BARRETT,  
*Chief Clerk House of Representatives.*

The Council concurred in amendments to C. B. No. 36, "To authorize R. Tingley and others to construct a road around the falls of the Missouri river."

The Council refused to concur in House amendments to C. B. No. 59, "An Act prohibiting Territorial Auditors issuing warrants, unless authorized by law, etc.," and requested the House to recede.

H. B. No. 57, "To incorporate the Montana Stage Company," was read first and second time, and referred to a Select Committee—Messrs. Galloway, Orr, and Spratt.

A message from the Governor was received. Council went into an executive session on the message.

Council resumed its business.

A Committee of two, consisting of Messrs. Brown and Phelps, was appointed to confer with a House Committee on H. B. No. 16, "An Act to authorize C. Francisco and D. Abbott to construct a ferry, etc."

A message from the House was received, as follows :

The substitute for H. B. No. 74 was read third time, and passed.

That C. B. No. 41 passed the House, Dec. 12, 1866.

Also, that C. B. No. 63 was passed.

A. H. BARRETT,  
*Chief Clerk.*

Mr. Brown, chairman, reported on H. B. No. 73, "Authorizing J. J. Tomlinson and others to construct a toll road, etc.," recommending its passage.

Bill read third time, and passed by the following vote:

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Orr, Phelps, Spratt, Tuttle, Waterbury, Wilson, and Mr. President—11.

The title was agreed to.

C. B. No. 53, "To divorce Martha A. and Allen Williams," was read, rules suspended, considered engrossed, bill read third time, and passed by the following vote:

*Yeas*—Messrs. Brown, Chiles, Lowry, Phelps, Spratt, Waterbury, Wilkinson, Wilson, and Mr. President—9.

*Nays*—Messrs. Galloway, Orr, and Tuttle—3.

The title was agreed to.

H. J. R. No. 4, "On extra compensation," was read first and second time.

Mr. Orr offered a substitute, which was adopted.

Substitute read first and second time, and amended.

Adopted as amended.

Rules suspended, read third time, and passed by the following vote:

*Yeas*—Messrs. Brown, Galloway, Lowry, Orr, Waterbury, Wilson, and Mr. President—7.

*Nays*—Messrs. Chiles, Phelps, Spratt, and Tuttle—4.

Title agreed to.

Mr. Wilkinson, of Special Committee, reported on C. B. No. 61,

recommending that section 2 be amended so as to read, at the end of line, "residing within three miles of said road," "excepting the citizens of Helena, and miners," and that with this amendment the bill pass.

Report received, and adopted.

Bill as amended, adopted, ordered engrossed for third reading, and substitute ordered to be referred to the House.

The Council then adjourned to 10 o'clock, to-morrow morning.

CHAS. S. BAGG,  
*President.*

WM. Y. LOVELL,  
*Chief Clerk.*

## THIRTY-THIRD DAY.

DECEMBER 13, 1866.

Council called to order by the President at 10 o'clock.

Roll called—Quorum present

Mr. Chiles, chairman of Committee on Enrollment, reported—

C. B. No. 38, "An Act concerning penal bonds," and

C. B. No. 21, "An Act concerning the Legislative Assembly of the Territory of Montana,"

As correctly engrossed.

Mr. Brown, chairman of the Committee on Incorporations, to whom was referred H. B. No. 66, "An Act to authorize Samuel Weir and his associates to construct and maintain a bridge or ferry across the Madison river, near the mouth of the same," recommend its passage.

Report received, and adopted.

Mr. Brown, chairman of the Committee on Incorporations, reported—

Your Committee, to whom was referred H. B. No. 75, "An Act to authorize Edwin M. Park to erect a bridge across the Bitter Root river," having had the same under consideration, find that said Park has been operating at or near the point where the franchise is asked for by him for about two years, by what authority your Committee is not aware, from any evidence in their possession.



Your Committee further find, from the evidence in their possession, that the present Legislative Assembly passed an act conferring the authority upon R. Eddy and Jno. Wilson to establish a ferry at the point designated in said H. B. No. 75.

Your Committee therefore recommend that said H. B. No. 75 do not pass.

All of which is most respectfully submitted.

Report received, and adopted, and bill indefinitely postponed.

Mr. Waterbury offered a substitute for Joint Resolution No. —  
“For the relief of J. M. Castner.

On motion of Mr. Chiles, the substitute was indefinitely postponed.

Mr. Wilson, chairman, to whom was referred H. B. No. 70, “To define the boundary lines in this Territory,” report the same back, recommending its passage.

Report received, and laid on the table.

The substitute for C. B. No. 16 was taken up, according to special order.

A message from the House was received as follows:

The House refuse to recede from the amendments to C. B. No. 42, and Messrs. McCullough and McMurtry were appointed as a Committee of Conference on the part of the House, and ask the Council to appoint a like committee.

Also, that H. B. No. 82 passed the House.

Also, that C. B. No. 58 was rejected by the House.

C. B. No. 70, with accompanying amendments, passed.

H. B. No. 79. The vote on passage of bill was reconsidered.

A. H. BARRETT, *C. C.*

Council adjourned to 2 o'clock, P. M.

## AFTERNOON SESSION.

Council called to order by the President.

Roll called—Quorum present.

Mr. Orr, by consent, introduced a bill No. —, "To authorize Henry Wailey and others to construct a toll road in Meagher county."

Rules suspended, bill read first and second time, considered engrossed, read third time, and passed by the following vote:

*Yeas*—Messrs. Chiles, Galloway, Orr, Spratt, Tuttle, Wilkinson, Wilson, and Mr. President—8.

Title agreed to.

Mr. Galloway, by consent, introduced C. B. No. —, "To authorize the Governor to appoint an assessor and collector for Choteau county."

Rules suspended, bill read first and second time, considered engrossed, read third time, and passed by the following vote:

*Yeas*—Messrs. Chiles, Galloway, Lowry, Moore, Orr, Spratt, Tuttle, Waterbury, Wilkinson, Wilson, and Mr. President—11.

Mr. Brown was excused.

The title was agreed to.

The President, by consent, introduced C. B. No. —, "A Bill for an act for the protection of the roads."

Read first and second time, rules suspended, bill considered engrossed, read third time, and passed by the following vote:

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Moore, Orr, Spratt, Tuttle, Waterbury, Wilkinson, Wilson, and Mr. President—12.

The title was agreed to.

Mr. Brown, by consent, introduced C. B. No. 75, "An Act to define the boundary lines of Deer Lodge county."

Read first and second time, and referred to a Committee of five, consisting of Messrs. Waterbury (chairman), Brown, Spratt, Moore, and Orr.

On motion, Mr. Spratt called up C. B. No. 42, "An Act to regulate proceedings in civil cases."

Messrs. Spratt and Phelps were appointed a Committee from the Council to confer with a like Committee from the House.

Mr. Brown, chairman, by consent, reported on H. B. No. 69, and recommend its passage.

Mr. Chiles, chairman, reported the following bills handed to the Governor at 10 $\frac{3}{4}$  o'clock, A. M., of this day :

C. B. No. 48, "An Act to authorize Thomas A. Holmes, Luther M. Brown, their associates, heirs and assigns, to establish a ferry across the Missouri river, between the counties of Edgerton and Meagher."

C. J. M. No. 3, "Asking an appropriation to reopen the national road across the Bitter Root mountains."

C. B. No. 84, "An Act to incorporate the Grasshopper Creek Ditch and Mining Company."

C. B. No. 21, "An Act concerning the Legislative Assembly of the Territory of Montana."

C. B. No. 38, "An Act concerning penal bonds."

Mr. Chiles reported the following bills correctly enrolled :

C. B. No. 63, "An Act to authorize H. P. Truett and George Plaisted to construct a bed rock flume on Last Chance Gulch."

C. B. No. 60, "An Act authorizing the people of Gallatin county to establish a county seat in Gallatin county."

A message from the House was received as follows :

The House refuse to recede from their amendments to C. B. No. 26, and a Committee of Conference was appointed on the part of the House, and ask the Council to appoint a like Committee.

Messrs. McCullough and McMurtry were appointed on part of the House, Dec. 13, 1866.

C. B. No. 71, "An Act allowing extra compensation," was read, with House amendments.

First amendment, "That each fireman shall have the sum of four hundred dollars."

Which the Council concurred in by the following vote :

*Yeas*—Messrs. Galloway, Lowry, Moore, Orr, Waterbury, Wilkinson, Wilson, and Mr. President—8.

*Nays*—Messrs. Brown, Chiles, Phelps, Spratt, and Tuttle—5.

Mr. Spratt, chairman of Committee on Judiciary, reported on H. B. No. 19, "An Act concerning limitations," and recommended it be indefinitely postponed.

Report received, and adopted, and bill indefinitely postponed.

H. B. No. 37, "Locating the capital," was taken up.

Mr. Chiles moved to insert "Deer Lodge City," instead of "Helena," which motion was laid on the table by the following vote :

*Yeas*—Messrs. Lowry, Moore, Orr, Phelps, Waterbury, Wilkinson, and Wilson—7.

*Nays*—Messrs. Brown, Chiles, Galloway, Spratt, Tuttle, and Mr. President—6.

Bill read third time, and passed by the following vote :

*Yeas*—Messrs. Brown, Lowry, Moore, Orr, Phelps, Waterbury, Wilkinson, Wilson, and Mr. President—9.

*Nays*—Messrs. Chiles, Galloway, Spratt, and Tuttle—4.

Title agreed to.

Mr. Chiles, chairman of Committee on Enrollment, reported C. B. No. 41, "An Act to provide revenue, and collecting the same, for territorial and county purposes," correctly enrolled.

The Council took a recess to half past 6 o'clock this evening.

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EVENING SESSION.

Council called to order by the President, at half past 6 o'clock.

Roll called—Quorum present.

H. B. No. 77, "Providing for funding the territorial debt."

Read third time, rules suspended, and bill passed by the following vote:

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Orr, Phelps, Spratt, Wilkinson, Wilson, and Mr. President—10.

Title was agreed to.

H. B. No. 58, "An Act concerning licenses," was taken up, rules suspended, bill read third time, and passed by the following vote:

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Spratt, Wilkinson, Wilson, and Mr. President—8.

*Nay*—Mr. Orr.

Title agreed to.

The following report was received:

Your Committee, to whom was referred H. B. No. 57, "An Act to incorporate the Montana Stage Company," having carefully examined the same, and believing that if the provisions of

the bill are carried out it will be the means of bringing into the Territory a large amount of capital, would report the bill back, and recommend its passage.

(Signed) J. E. GALLOWAY.  
J. G. SPRATT.

Report received and adopted, rules suspended, bill read third time, and passed by the following vote :

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Phelps, Spratt, Wilkinson, Wilson, and Mr. President—9.

*Nay*—Mr. Orr.

Title agreed to.

Mr. Orr made the following report on H. B. No. 57, "To incorporate the Montana Stage Company :"

As one of the Select Committee to charter the above named company I would report as follows :

I can see no necessity for such a franchise. The parties have a right to establish as many stage companies as they may choose, in common with all other citizens. Another reason that influences me is that it, in my opinion, asks to be authorized as a stage company, to be allowed, in an indirect manner, to do a banking and exchange business, not at all necessary to carry on such business. If they desire to become bankers or dealers in exchange, let them ask for a banking franchise and not for a stage company's.

H. B. No. 79, "To incorporate the Montana Hydraulic and Mining Company."

Read first and second time, rules suspended, bill read third time, and passed by the following vote :

*Yeas*—Messrs. Chiles, Galloway, Lowry, Moore, Orr, Phelps, Spratt, Wilkinson, Wilson, and Mr. President—10.

*Nay*—Mr. Brown.

Title agreed to.

Substitute for C. B. No. 16 was made special order for tomorrow, at 10 o'clock, A. M.

Messrs. Orr, Spratt and Wilkinson were appointed a Committee to report.

The following message from the House was received :

That the House refuse to recede from their amendments to C. B. No. 59.

House concurred in Council amendments to H. B. No. 47.

C. B. No. 66, C. B. No. 72, C. B. No. 71, C. B. No. 73, were passed, Dec. 13, 1866.

A. H. BARRETT,  
*Chief Clerk of H. of R.*

C. B. No. 61, "To establish a territorial road in Edgerton county," was rejected by the following vote :

*Yeas*—Messrs. Galloway, Orr, Spratt, Wilkinson, and Wilson—5.

*Nays*—Messrs. Brown, Chiles, Moore, Phelps, and Mr. President—5.

Mr. Chiles reported the following bills correctly enrolled :

C. B. No. 64, "To authorize O. D. Louthensheimer, W. Burr and C. C. Stubbs to establish a ferry."

C. B. No. 36, "To authorize Robert Tingley and associates to construct a wagon road around the falls of the Missouri river."

Mr. Brown, chairman, reported on H. B. No. 69, "To incorporate the Missoula Mills and Choteau Wagon Road Company," and recommended its passage.

Rules suspended, bill read third time, and passed :

*Yeas*—Messrs. Brown, Chiles, Lowry, Moore, Orr, Phelps, Spratt, Waterbury, Wilkinson, Wilson, and Mr. President—11.

Title was agreed to.



Mr. Chiles introduced C. J. R. No. —, in relation to the distribution of the laws :

*Be it resolved*, by the Legislative Assembly of the Territory of Montana, as follows :

That the Secretary of the Territory be, and he hereby is required to furnish all territorial and county officers one copy each of all the laws passed at this the third session of the Legislative Assembly of the Territory. Also, to furnish the members of the Council and House of Representatives of the said Assembly, and the Chief Clerk of each House two copies each of all the laws, and two copies of the journal of both Houses of said Assembly. Also, each Assistant Clerk, Engrossing and Enrolling Clerk, Sergeant-at-Arms and Doorkeeper of said Assembly, with one copy each of all the laws and the journals of both Houses, as soon as the same are published by him.

*Provided*, That nothing herein contained shall be so construed by any officer of this Territory as to bind the Territory of Montana for the payment of any printing during the session of the Legislative Assembly of this Territory.

Resolution adopted.

Rules suspended, resolution considered engrossed, read third time, and passed by the following vote :

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Moore, Orr, Phelps, Spratt, Waterbury, Wilkinson, Wilson, and Mr. President —12.

The title agreed to.

Mr. Waterbury, chairman, made the following report :

Your Committee on Ways and Means would respectfully report on C. B. No. 65, " To define the boundary lines of Deer Lodge county," and recommend that it pass.

Report received and adopted, and bill laid on the table.

Mr. Spratt, chairman of Committee on Judiciary, reported on

C. B. No. 65, "Relating to city charter of Virginia City," and recommend that it do pass.

Report received, and adopted.

Rules suspended, bill read third time, and rejected by the following vote :

*Yeas*—Messrs. Galloway, Spratt, and Waterbury—3.

*Nays*—Messrs. Brown, Chiles, Moore, Orr, Wilkinson, Wilson, and Mr. President—7.

Mr. Lowry reported on H. B. No. 48, "Concerning roads, highways, trails, etc."

Bill recommitted to Messrs. Lowry, Galloway, and Wilson.

H. B. No. 16 was ordered up, "To authorize C. Francisco and D. Abbott to construct a bridge on Sun river."

The Council recessed from all the amendments they had made.

H. B. No. 74, "To establish a common school system," was indefinitely postponed.

H. B. No. 28, "Authorizing Samuel Bressler and others to construct a toll road from Virginia City to Hot Springs," with amendments, was adopted, rules suspended, read third time, and passed :

*Yeas*—Messrs. Brown, Chiles, Galloway, Moore, Orr, Phelps, Spratt, Tuttle, Waterbury, Wilkinson, and Wilson—11.

*Nay*—Mr. President.

Title agreed to.

H. B. No. 68, "To locate the county seat of Jefferson county, etc.," was read first and second time, rules suspended, read third time, and passed by the following vote :

*Yeas*—Messrs. Brown, Chiles, Galloway, Moore, Orr, Phelps, Spratt, Waterbury, Wilkinson, Wilson, and Mr. President—11.

Title agreed to.

H. B. No. 82, "Relating to Civil Practice Act."

Read first and second time, and referred to Committee on Judiciary.

The following message from the Governor was read :

EXECUTIVE OFFICE,  
VIRGINIA CITY, M. T., Dec. 13, 1866. }

*Gentlemen of the Council :*

On the 11th inst., I approved and signed C. B. No. 45, "Granting R. Hereford, M. P. Lowry and others, the right to establish and maintain a toll road in Lost Horse Gulch."

Also, "An Act to repeal section 32 of an act relative to elections," numbered 39.

Also, on the 12th inst., I approved and signed C. B. No. 49, "Authorizing J. H. Ming and others to construct and maintain a toll road in Edgerton and Choteau counties.

Also, Joint Resolution No. 8, "Authorizing the Auditor to issue warrants in favor of A. Leech and others."

Also, on this day approved and signed C. B. No. 21, "Concerning the Legislative Assembly of Montana."

Also, C. B. No. 38, "An Act concerning penal bonds."

Also, C. B. No. 48, "To authorize Thomas A. Holmes and others to establish a ferry across the Missouri river, between the counties of Edgerton and Meagher."

Also, C. B. No. 54, "To incorporate the Grasshopper Creek Ditch and Mining Company."

Also, C. J. M. No. 3, "For an appropriation to open the national road across the Bitter Root Mountains."

(Signed)

GREEN CLAY SMITH.

The Council adjourned to 10 o'clock to-morrow morning.

CHARLES S. BAGG,

*President.*

WM. Y. LOVELL,

*Chief Clerk.*

## THIRTY-FOURTH DAY.

DECEMBER 14, 1866.

Council called to order by the President.

Roll called—Quorum present.

The President introduced C. J. M. No. 9, "Requesting His Excellency the Governor to repair to the seat of government in our behalf."

Read first and second time, rules suspended, read third time, and passed by the following vote :

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Moore, Orr, Phelps, Spratt, Tuttle, Waterbury, Wilson, and Mr. President—12.

Message from the House was received :

The House refused to recede from the amendments to C. B. No. 59.

C. B. No. 50 passed the House.

H. B. No. 80 passed the House.

C. J. R. No. 10 passed the House.

C. J. R. No. 9 passed the House.

H. B. No. 76 passed the House.

H. J. R. No. 3 passed the House.

H. J. R. No. 5 passed the House.

H. B. No. 58. Council amendments were concurred in.

H. B. No. 83 passed the House.

H. B. No. 38 passed the House.

C. J. R. No. 12 passed the House.

H. C. R. No. 4 passed the House.

C. J. M. No. 5 passed the House.

C. J. M. No. 6, "North Pacific Railroad," rejected.

Mr. Chiles, chairman of Committee on Enrollment, reported the following bills correctly enrolled :

C. B. No. 68, "To authorize James M. Bailey, his heirs and assigns, to construct and maintain a toll bridge on Hell Gate river, in Deer Lodge county."

C. B. No. 53, "An Act to divorce Martha A. Williams and Allen Williams from the bonds of matrimony."

Mr. Chiles, chairman of Committee on Enrollment, reported that the following bills were placed in the hands of the Governor, at 10 $\frac{1}{4}$  o'clock, A. M., of this day :

C. B. No. 60, "Authorizing the people of Gallatin county to establish the county seat of said county."

C. B. No. 63, "To authorize H. P. Truatt and Geo. Plaisted to construct a bed rock flume in Last Chance Gulch."

C. B. No. 41, "To provide revenue, and collecting the same for territorial and county purposes."

C. B. No. 64, "To authorize O. D. Louthensheimer, Burr, and Stubbs to establish a ferry."

C. B. No. 36, "To authorize R. Tingley, John Kennedy and others to construct a wagon road around the falls of the Missouri river."

Mr. Waterbury, chairman of Select Committee, reported a substitute to C. B. No. 75, "An Act to define the boundary lines of Deer Lodge county."

Report was not adopted.

Mr. Chiles, chairman, reported the following bills as correctly enrolled :

C. B. No. 72, "Authorizing Henry Whaley and others to construct a toll road in Meagher county."

C. B. No. 73, "An Act to authorize the Governor to appoint

an assessor and collector for the county of Choteau, under certain conditions."

C. J. R. No. 9, "Requesting His Excellency Green Clay Smith to repair to the national seat of government on our behalf."

C. J. M. No. 5 was amended, and adopted as amended, and was read first and second time.

Mr. Chiles, chairman of Committee on Enrollment, reported that the following bills were handed to the Governor this day, at 12 o'clock, M.:

C. B. No. 53, "An Act to divorce Martha A. Williams and Allen Williams from the bonds of matrimony."

C. B. No. 68, "An Act to authorize James M. Bailey, his heirs and assigns, to construct and maintain a toll bridge on the Hell Gate river, in Deer Lodge county."

C. B. No. 73, "An Act to authorize the Governor to appoint an assessor and collector for Choteau county, under certain conditions."

C. B. No. 72, "An Act authorizing Henry Whaley, Joseph V. Stafford and Wm. E. Tierney to construct a toll road in Meagher county."

C. J. R. No. 9, "Requesting His Excellency Green Clay Smith to repair to the seat of our national government on our behalf."  
(Signed) WM. H. CHILES, *Chairman*.

C. J. M. No. 16, "Asking for establishing post office and post routes," was ordered engrossed, and passed to a third reading.

C. B. No. 76, "To amend an act to regulate proceedings in civil cases in the courts of this Territory."

Read first and second time.

On motion, the bill and amendments were laid on the table.

Mr. Chiles, chairman of Committee on Enrollment, made the following report:

Your Committee on Enrollment report that C. B. No. 70, "An



Act allowing compensation to certain officers of this Territory," has been correctly enrolled, and would report that the amendment allowing Hon. L. P. Williston the sum of two thousand dollars per annum, which was concurred in and adopted by the Council under the false impression that it was a House amendment, has not been enrolled in and considered as part of said bill.

Report received, and adopted.

The following was received from the Governor :

EXECUTIVE OFFICE,  
VIRGINIA CITY, M. T., Dec. 14, 1866. }

*Gentlemen of the Council and House of Representatives of the Legislature of Montana :*

I herewith lay before your honorable body the report of the Commission authorized to codify the laws passed at the First Legislative Assembly of this Territory, this day received.

(Signed) GREEN CLAY SMITH.

The message was laid on the table.

The following resolution was offered by Mr. Bagg :

*Resolved*, That the Clerk of the Council respectfully transmit the communication received from His Excellency, enclosing the report of the Code Commissioners who were authorized at the First Session of the Legislative Assembly, informing His Excellency that the law creating said commission required them to report to the next legislature, that they failed to do so, and that the present legislature did appoint a Committee of one from each House, composed of the Speaker and the President, to require them to report to this session, therefore ask the Governor to return the report of the Commissioners, as it is evident that said commissioners are intentionally evading the legality of this session of the Legislative Assembly.

Resolution adopted.

Council took a recess until 2 o'clock, P. M.



## AFTERNOON SESSION.

Council called to order by the President at 2 o'clock, P. M.

Roll called—Quorum present.

A message from the Governor was received, as follows:

EXECUTIVE OFFICE,  
VIRGINIA CITY, M. T., Dec. 14, 1866. }

GENTLEMEN OF THE COUNCIL—I inform your honorable body, that I have this day signed and approved C. B. No. 68, "An Act to authorize James M. Bailey to construct a toll bridge across the Hell Gate river in Deer Lodge county."

Also, C. B. No. 72, "An Act giving Henry Whaley and others the right to construct a toll road in Meagher county."

Also, C. B. No. 73, "An Act to authorize the Governor to appoint an assessor and collector for the county of Choteau, under certain conditions."

Also, C. B. No. 60, "An Act to authorize the people of Gallatin county to establish the county seat of Gallatin county."

Also, C. B. No. 63, "An Act to authorize H. P. Truett and George Plaisted to construct a bed rock flume in Last Chance Gulch."

Also, C. B. No. 36, "An Act to authorize Robert Tingley and John Kennedy and associates to construct a wagon road around the falls of the Missouri river."

Also, C. B. No. 64, "An Act to authorize O. D. Loutsenheizen, A. G. Burr, and C. C. Stubbs to establish a ferry."

(Signed) GREEN CLAY SMITH.

Mr. Chiles, chairman of the Committee on Enrollment, reported as correctly enrolled:

C. B. No. 23, "To incorporate the Beaver Head County Gold and Silver Mining and Manufacturing Company."

C. B. No. 30, "An Act to incorporate the Lemhi Wagon Road Company."

C. B. No. 16, "Defining the judicial districts," was ordered up, amendments adopted, considered engrossed, read third time, and passed by the following vote:

*Yeas*—Messrs. Brown, Chiles, Galloway, Orr, Phelps, Tuttle, Waterbury, Wilson, and Mr. President—9.

*Nays*—Messrs. Lowry and Spratt—2.

The title was agreed to.

C. J. M. No. 5, "In relation to post offices and post routes," was read third time, and passed by the following vote:

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Orr, Phelps, Spratt, Tuttle, Waterbury, Wilson, and Mr. President—11.

Title agreed to.

Mr. Brown, chairman, reported on H. B. No. 67, recommending its passage.

Mr. Chiles, chairman of Committee on Enrollment, reported the following bills handed to the Governor at 2½ o'clock, P. M. of this day:

C. B. No. 70, "An Act allowing compensation to certain officers of this Territory."

C. B. No. 23, "A Bill incorporating the Beaver Head Gold and Silver Mining Company."

C. B. No. 30, "An Act to incorporate the Lemhi Wagon Road Company."

H. B. No. 67, "Authorizing H. McFarland to construct a ferry across the Missouri river."

Read first and second time, rules suspended, read third time, and passed by the following vote:

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Orr, Phelps, Spratt, Tuttle, Waterbury, Wilkinson, and Wilson—11.

*Nay*—Mr. President.

Title was agreed to.

H. J. R. No. 5, "Allowing pay for publishing proclamations," was read first and second time, and amended.

Amendments adopted, and referred to Committee on Ways and Means.

Mr. Chiles, chairman of Committee on Enrollment, reported C. B. No. 71, "To authorize — Brown and Taze to construct a toll road from Blackfoot City to Lost Horse Gulch," to be correctly enrolled.

C. J. M. No. 4, "For appropriation for Northern Pacific Railroad," was read first and second time, rules suspended, ordered engrossed, read third time, and passed by the following vote:

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Moore, Orr, Phelps, Spratt, Tuttle, Waterbury, Wilkinson, Wilson, and Mr. President—13.

Title agreed to.

H. B. No. 40, "Defining the duties of county treasurers, and the payment of county warrants," was read, amendments adopted, ordered engrossed, and passed to a third reading.

H. B. No. 80, "Authorizing D. A. G. Floweree to keep a ferry across the Missouri river," read first and second time, rules suspended, read third time, and passed by the following vote:

*Yeas*—Messrs. Brown, Lowry, Moore, Spratt, Tuttle, Waterbury, Wilkinson, Wilson, and Mr. President—9.

*Nays*—Messrs. Chiles, Galloway, Orr, and Phelps—4.

Title agreed to.

C. J. R., "To adjourn Legislative Assembly," read first and second time, rules suspended, resolution considered engrossed, read third time, and passed by the following vote:

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Moore, Orr, Phelps, Spratt, Tuttle, Waterbury, Wilkinson, Wilson, and Mr. President—13.

Title agreed to.

H. J. R. No. 5, "For pay for publishing proclamations," rules suspended, considered engrossed, read third time, and rejected by the following vote:

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, and Wilkinson—5.

*Nays*—Messrs. Moore, Orr, Phelps, Spratt, Tuttle, Waterbury, Wilson, and Mr. President—8.

H. B. No. 38, "An Act to protect bridges, mill dams, etc.," read first and second time, rules suspended, read third time, and passed by the following vote:

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Moore, Orr, Phelps, Spratt, Tuttle, Waterbury, Wilkinson, Wilson, and Mr. President—13.

Title agreed to.

Mr. Phelps, chairman of the Committee on Engrossment, reported the amendments to H. B. No. 40 as correctly engrossed.

Mr. Galloway reported on H. B. No. 48, and recommended the passage of a substitute for the same:

"Being An Act to regulate ferries," and it was indefinitely postponed.

Mr. Chiles, chairman of Committee on Enrollment, reported C. J. R. No. — "In relation to the distribution of the laws," as correctly engrossed.

The Council took a recess to 6½ o'clock, this evening.

## EVENING SESSION.

Council called to order by the President.

Roll called—Quorum present.

H. J. R. No. 4, "Complimentary to the Governor," resolution amended and passed.

*Yeas*—Messrs. Brown, Chiles, Lowry, Moore, Orr, Phelps, Tuttle, Waterbury, and Mr. President—9.

*Nays*—Messrs. Spratt, Galloway, and Wilson—3.

On motion of Mr. Orr, H. J. R. No. 5, "To pay T. J. Favorite, proprietor of the Montana Radiator, forty dollars for publishing proclamations," was reconsidered, rules suspended, resolution considered engrossed, and passed by the following vote :

*Yeas*—Messrs. Brown, Galloway, Lowry, Moore, Orr, Phelps, Spratt, Tuttle, and Wilson—9.

*Nays*—Mr. Waterbury, and Mr. President—2.

H. B. No. 83, "For relief of J. M. Castner, was reconsidered, bill read third time, and passed by the following vote :

*Yeas*—Messrs. Lowry, Moore, Orr, Spratt, Tuttle, Waterbury, and Wilson—7.

*Nays*—Messrs. Phelps, Brown, and Mr. President—3.

C. B. No. 75, "To define the eastern boundary of Deer Lodge county," was read, with amendments.

The bill and amendments were indefinitely postponed.

C. B. No. 22 passed the House.

Mr. Chiles, chairman, reported—

C. J. R. No. 12, "Fixing the hour of adjournment," and

C. B. No. 50, "An Act to incorporate the Deep Crèek Canal Company,"

As correctly enrolled.

Mr. Chiles, chairman, reported the following bills were handed to the Governor for approval, at 8 o'clock, P. M., of this day :

C. B. No. 71, "An Act to authorize A. G. Lee, Ira Brown, and John Taze, their heirs, assigns, associates and successors, to construct and maintain a toll road from Blackfoot City, in Deer Lodge county, to Lost Horse Gulch, in Edgerton county."

C. J. R. No. 13, "For the relief of John Keenan," was read first and second time, and referred to Committee—Messrs. Galloway Waterbury, and Chiles.

Council adjourned to 10 o'clock, to-morrow morning.

## THIRTY-FIFTH DAY.

DECEMBER 15, 1866.

Council called to order by the President.

Roll called—Quorum present.

Journal read, and approved.

Mr. Waterbury, chairman of the Committee on Ways and Means, made the following report :

Your Committee have examined C. J. R. No. 14, "To provide for the payment of freight on books," and would report the same back, and recommend its passage.

Report received, and adopted.

Resolution No. 14 was then considered engrossed, rules suspended, and passed by the following vote :

*Yeas*—Messrs. Brown, Chiles, Galloway, Moore, Phelps, Tuttle, Waterbury, Wilkinson, Wilson, and Mr. President—10.

*Nay*—Mr. Orr.

Title agreed to.

Mr. Waterbury reported on C. J. R. No. 13, "For relief of John Kenan."

Report received, and adopted.

Mr. Spratt made a report on C. B. No. 42, which was adopted.

H. B. No. 76, "Authorizing John A. Culver and others to maintain a ferry on the Yellowstone river."



Amendments adopted, bill read third time, ordered engrossed, and passed by the following vote:

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Moore, Orr, Phelps, Spratt, Tuttle, Waterbury, Wilson, and Mr. President—12.

· Title agreed to.

Mr. Chiles, chairman, reported the following bills correctly enrolled:

C. B. No. 66, "An Act in relation to change of venue in civil and criminal cases."

C. J. M. No. 5, "For the establishment of post offices and post routes."

H. B. No. 40, "Defining the duties of county treasurers and the payment of county warrants."

Amendments and bill read third time, and rejected by the following vote:

*Yeas*—Messrs. Lowry, Orr, Phelps, Waterbury, and Wilkinson—5.

*Nays*—Messrs. Brown, Chiles, Galloway, Moore, Spratt, Tuttle, Wilkinson, and Mr. President—8.

Mr. Phelps, chairman, reported C. B. No. 62, correctly engrossed.

H. B. No. 62, "An Act to provide for a census," passed by the following vote:

*Yeas*—Messrs. Chiles, Lowry, Moore, Phelps, Tuttle, Wilkinson, and Wilson—7.

*Nays*—Messrs. Brown, Orr, and Mr. President—3.

Title agreed to.

The House communicated the following:

C. B. No. 16 passed the House, with accompanying amendments.

C. J. R. No. 14 passed the House.

C. B. No. 62 passed the House.

H. J. R. No. 7 passed the House.

C. B. No 77 passed the House.

C. J. R. No. 15 was rejected by the House.

Mr. Chiles, chairman, reported that at the hour of 11 A. M. this day, the following bills were handed to the Governor :

C. B. No. 50, "An Act to incorporate the Deep Creek Canal Company."

C. B. No. 66, "In relation to change of venue in civil and criminal cases."

C. J. M. No. 5, "Asking the establishment of post offices and post routes."

H. B. No. 66, " Authorizing S. Weir and others to construct a bridge or ferry across the Madison river."

Rules suspended, read third time, and passed by the following vote :

*Yeas*—Messrs. Brown, Moore, Orr, Phelps, Spratt, Tuttle, Wilkinson, Wilson, and Mr. President—9.

Title agreed to.

H. B. No. 70, " To define the boundary lines of this Territory." Read third time, and indefinitely postponed.

The House amendments to substitute to C. B. No. 16 were concurred in.

Mr. Chiles, chairman, reported as correctly enrolled, "An Act to regulate proceedings in civil cases in the courts of this Territory."

H. J. M. No. 3, "Relating to North Pacific Railroad," was indefinitely postponed.

Mr. Galloway introduced C. J. R. No. 15, "In relation to extra compensation," which was read first and second time, and referred to Committee on Ways and Means.

Mr. Waterbury offered C. J. R. No. —, "For the relief of John Keenan," which was lost by the following vote:

*Yeas*—Messrs. Galloway, Phelps, Spratt, Waterbury, and Wilkinson—5.

*Nays*—Messrs. Brown, Chiles, Moore, Orr, Tuttle, Wilson, and Mr. President—7.

H. J. R. No. 7 was referred to Committee on Ways and Means.

Council concurred in House amendments to C. B. No. 59, "Prohibiting the Territorial Auditor from issuing warrants, etc."

Petition from the citizens of Meagher county was read.

Mr. Chiles reported that "An Act to amend an act in relation to proceedings in civil cases in courts of this Territory," has been handed to the Governor to be approved.

"An Act in relation to running horses in cities, towns and villages."

Rules suspended, read third time, and passed by the following vote:

*Yeas*—Messrs. Galloway, Lowry, Moore, Orr, Tuttle, Wilkinson, and Wilson—7.

*Nay*—Mr. Chiles.

Mr. Chiles, chairman, reported C. B. No. 22, "An Act to provide for the support of the poor," correctly enrolled.

Mr. Waterbury, chairman of Committee on Ways and Means, reported that they have had under consideration C. J. R. No. 15, "To provide additional pay to attachees of the Legislative Assembly," would report same back, and recommend that it be made the special order of this day at 2 o'clock.

Also, we have considered H. J. R. No. 7, for same object as

above, and would recommend that it be amended by striking out the words "twenty-five" and insert the word "fifty."

With the above amendment, recommend that H. J. R. No. 7 do pass.

The Council took a recess until half past 1 o'clock, P. M.

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#### AFTERNOON SESSION.

Roll called—Quorum present.

Mr. Lowry, by consent, introduced C. B. No. —, "To amend an act defining judicial districts of this Territory, assigning judges, etc."

Read first and second time, rules suspended, considered engrossed, read third time, and passed by the following vote:

*Yeas*—Messrs. Brown, Chiles, Galloway, Lowry, Orr, Phelps, Spratt, Tuttle, Wilkinson, and Wilson—10.

*Nays*—Messrs. Moore, Waterbury, and Mr. President—3.

Title agreed to.

Mr. Chiles asked leave to introduce a bill, which was objected to.

Whereupon, Mr. Chiles offered the following:

Mr. Chiles offered to introduce "An Act to repeal an act entitled an act to incorporate the Virginia and Nevada Ditching and Fluming Company," and asked the unanimous consent of the Council to introduce the bill.

President Bagg objected to the introduction of the bill, whereupon, on motion of Mr. Chiles to spread the proceedings on the journal, the ayes and nays were called, as follows:

*Yeas*—Messrs. Chiles, Galloway, Moore, Orr, Spratt, Tuttle, Waterbury, Wilkinson, Wilson, and Mr. President—10.

[ Mr. Brown was excused.

Mr. Chiles, chairman, reported the following bills correctly enrolled :

C. B. No. 59, "An Act prohibiting the Territorial Auditor from issuing warrants without express provision of law, and for other purposes."

C. B. No. 16, "Defining the judicial districts, etc."

Mr. Chiles further reported that the above bills were handed to the Governor this day.

Mr. Brown, chairman, to whom was referred H. B. No. 31, reported same back, and recommend its passage.

H. B. No. 31, "An Act to incorporate the Fairbanks Town Company," was read first and second time, rules suspended, ordered engrossed, and passed on its third reading by the following vote :

*Yeas*—Messrs. Brown, Moore, Phelps, Spratt, Waterbury, Wilkinson, Wilson, and Mr. President—8.

*Nays*—Messrs. Galloway and Tuttle—2.

Title agreed to.

The following communication from the Governor was read :

I am directed by the Governor to inform the Council, that he did on the 14th inst. approve and sign—

C. B. No. 71, "An Act to authorize A. G. Lee and others to construct and maintain a toll road from Blackfoot City in Deer Lodge county, to Lost Horse Gulch, in Edgerton county."

Also, Joint Resolution No. 10, "In relation to distributing the laws."

Also, Joint Resolution No. 12, "Fixing the hour of adjournment."

Also, C. B. No. 5, "A Memorial for establishing post offices and post routes."

Also, Joint Resolution No. 9.

Also, C. B. No. 41, "An Act to provide revenue and collecting the same for territorial purposes."

Also, C. B. No. 50, "To incorporate the Deep Creek Canal Company."

Also, C. B. No. 66, "In relation to change of venue in civil and criminal cases."

A message from the Governor was received as follows :

EXECUTIVE OFFICE, VIRGINIA CITY, M. T., }  
December 14, 1866. }

GENTLEMEN OF THE COUNCIL—Allow me to inform your honorable body, that I have this day approved and signed the following Council Bills, viz. :

C. B. No. 23, "A Bill to incorporate the Beaver Head County Gold and Silver Mining and Manufacturing Company."

C. B. No. 30, "An Act to incorporate the Lemhi Wagon Road Company."

C. B. No. 53, "An Act to divorce Martha A. Williams and Allen Williams from the bonds of matrimony."

C. B. No. 16, "An Act defining the judicial districts, assigning the judges, etc., and for other purposes."

C. B. No. 59, "An Act prohibiting the Territorial Auditor from issuing warrants without express provision of law, and for other purposes."

C. B. No. 70, "An Act allowing compensation to certain officers of this Territory."

C. B. No. 42, "An Act to regulate proceedings in civil actions," passed April 12, 1866.

C. B. No. 22, "An Act for the support of the poor."

(Signed) GREEN CLAY SMITH.



On motion of Mr. Chiles, a Committee of two was appointed by the Council, with a like Committee on the part of the House, to inform His Excellency the Governor of the readiness of the House to adjourn at 4 o'clock, P. M.

C. J. R. No. 15, "For extra compensation to the attachees of the Legislature," was read first and second time, rules suspended, read third time, and passed by a unanimous vote.

Mr. Chiles reported the following bills correctly enrolled, and handed to the Governor:

C. J. R. No. 14, "Relating to payment of freight on books."

C. B. No. 62, "An Act to provide for taking the census in the year 1867."

Which were approved and signed by the Governor.

Mr. Lowry, by consent, introduced the following resolution:

*Be it Resolved*, By the Legislative Council of Montana Territory, that we tender our thanks to the Hon. Chas. S. Bagg, President of the Council, and to Wm. Y. Lovell, Chief Clerk, and to J. A. Inslie and Charles Lovejoy, Assistant Clerks, and to Chapman Menaugh, Engrossing Clerk, and to F. W. Cunningham, Enrolling Clerk, and to J. B. Caven, Sergeant-at-Arms, and to Henry Catlett, Doorkeeper, and to Sylvester Chamberlain, Fireman, and to Masters Marshall, Orr, and Johnny Daly, Pages, for the able, prompt, impartial and efficient manner in which they have discharged their several duties during the present session of the Legislative Assembly.

Resolution was adopted.

On motion of Mr. Mark A. Moore, the Council adjourned at 4 o'clock, P. M., *sine die*.

CHARLES S. BAGG,  
*President of the Council.*

WM. Y. LOVELL,  
*Chief Clerk of the Council.*



COUNCIL CHAMBER, VIRGINIA CITY, M. T., }  
December 15, 1866. }

I, Wm. Y. Lovell, Chief Clerk of the Council of the Legislative Assembly of the Territory of Montana, do hereby certify that the above and foregoing is a full, true and complete journal of the proceedings had at the Third Session of the Legislative Assembly.

WM. Y. LOVELL,  
*Chief Clerk.*

Attest:

CHAS. S. BAGG,  
*President of the Council.*



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